



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0660

Introduced 2/8/2007, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/203	from Ch. 120, par. 2-203
35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
35 ILCS 120/2-5	from Ch. 120, par. 441-5

Creates the Arts District Act. Sets forth procedures for the designation by the Illinois Arts Council of Illinois Arts Districts within downtowns of municipalities in the State. Provides for the exemption of use and occupation taxes for works of art that are used or sold within an Illinois Arts District. Provides an income tax deduction for working artists who live and work in an Illinois Arts District. Requires the Illinois Arts Council to submit an annual report to the Governor and General Assembly. Amends the Illinois Income Tax Act, the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act to make corresponding changes. Effective immediately.

LRB095 08989 BDD 29180 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning rural technology.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Arts
5 District Act.

6 Section 5. Definitions. As used in this Act:

7 "Council" means the Illinois Arts Council.

8 "Department" means the Department of Revenue.

9 "Downtown" has the meaning set forth under Section 605-523
10 of the Department of Commerce and Economic Opportunity Law in
11 the Civil Administrative Code of Illinois. "Downtown" also
12 includes any district designated by the Illinois Main Street
13 Advisory Council under the Illinois Mainstreet Program.

14 "Gallery" means a person engaged in the sale of original
15 works of art.

16 "Work of art" means a painting, sculpture, book or other
17 literary work; musical composition, film, or live theatrical,
18 dance, or musical performance.

19 "Working artist" means an individual whose primary means of
20 employment is as an artist engaged in the creation of original
21 works of art.

22 Section 10. Creation of Illinois Arts Districts.

1 (a) A municipality may apply to the Council to have
2 territory located that municipality designated as an Illinois
3 Arts District. To qualify as an Illinois Arts District, the
4 territory must meet the following requirements:

5 (1) the territory must be a contiguous area located
6 within the downtown of the municipality;

7 (2) the territory must be within a blighted
8 neighborhood;

9 (3) the territory must house a significant number of
10 working artists and galleries that create or sell original
11 works of art; and

12 (4) the designation of the territory as an Illinois Art
13 District will likely spur the development of a larger arts
14 community.

15 The municipality's application must be in the form and manner
16 required by the Council.

17 (b) Upon receiving an application under subsection (a), the
18 Council must determine whether the territory qualifies for
19 designation as an Illinois Arts District under the requirements
20 set forth under subsection (a). In making this determination,
21 the Council may consider only those working artists and
22 galleries that create or sell original works of art.

23 (c) If the Council determines that the territory meets all
24 the requirements under subsection (a), then the Council shall
25 designate the territory as an Illinois Arts District. Within 30
26 days after making this designation, the Council must notify the

1 municipality and the Department of this designation.

2 Section 15. Application of use and occupation taxes within
3 Illinois Arts Districts.

4 (a) Any gallery whose primary place of business is within
5 an Illinois Arts District and a working artist who both resides
6 and works within an Illinois Arts District may apply to the
7 Department for an exemption from the taxes imposed under the
8 Use Tax Act, the Service Use Tax Act, the Service Occupation
9 Tax Act, and the Retailers' Occupation Tax Act. The application
10 must be in the form and manner required by the Department.

11 (b) Any use or sale of a work of art that is sold from a
12 place of business within an Illinois Arts District by a person
13 who has been granted an exemption under subsection (a) is
14 exempt from the taxes imposed under the Use Tax Act, the
15 Service Use Tax Act, the Service Occupation Tax Act, and the
16 Retailers' Occupation Tax Act.

17 Section 20. Income tax deduction. A working artist may
18 deduct from his or her Illinois base income, under Section 203
19 of the Illinois Income Tax Act, an amount equal to 50% of any
20 income derived solely from the sale of original works of art
21 created within an Illinois Arts District, but not to exceed
22 \$12,000 in any taxable year.

23 Section 25. Application of the Film Production Services Tax

1 Credit Act. Nothing in this Act supersedes any provision of the
2 Film Production Services Tax Credit Act. No person may claim a
3 tax credit or other benefit in the same taxable year under both
4 this Act and the Film Production Services Tax Credit Act.

5 Section 30. Report. Within one year after the effective
6 date of this Act and each year thereafter, the Council shall
7 deliver to the Governor and the General Assembly a report
8 summarizing the number of Illinois Arts Districts, their impact
9 on local economies, and recommendations for further
10 improvements. Any other State agency must provide assistance,
11 as necessary, in the creation of the annual report.

12 Section 900. The Illinois Income Tax Act is amended by
13 amending Section 203 as follows:

14 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

15 Sec. 203. Base income defined.

16 (a) Individuals.

17 (1) In general. In the case of an individual, base
18 income means an amount equal to the taxpayer's adjusted
19 gross income for the taxable year as modified by paragraph
20 (2).

21 (2) Modifications. The adjusted gross income referred
22 to in paragraph (1) shall be modified by adding thereto the
23 sum of the following amounts:

1 (A) An amount equal to all amounts paid or accrued
2 to the taxpayer as interest or dividends during the
3 taxable year to the extent excluded from gross income
4 in the computation of adjusted gross income, except
5 stock dividends of qualified public utilities
6 described in Section 305(e) of the Internal Revenue
7 Code;

8 (B) An amount equal to the amount of tax imposed by
9 this Act to the extent deducted from gross income in
10 the computation of adjusted gross income for the
11 taxable year;

12 (C) An amount equal to the amount received during
13 the taxable year as a recovery or refund of real
14 property taxes paid with respect to the taxpayer's
15 principal residence under the Revenue Act of 1939 and
16 for which a deduction was previously taken under
17 subparagraph (L) of this paragraph (2) prior to July 1,
18 1991, the retrospective application date of Article 4
19 of Public Act 87-17. In the case of multi-unit or
20 multi-use structures and farm dwellings, the taxes on
21 the taxpayer's principal residence shall be that
22 portion of the total taxes for the entire property
23 which is attributable to such principal residence;

24 (D) An amount equal to the amount of the capital
25 gain deduction allowable under the Internal Revenue
26 Code, to the extent deducted from gross income in the

1 computation of adjusted gross income;

2 (D-5) An amount, to the extent not included in
3 adjusted gross income, equal to the amount of money
4 withdrawn by the taxpayer in the taxable year from a
5 medical care savings account and the interest earned on
6 the account in the taxable year of a withdrawal
7 pursuant to subsection (b) of Section 20 of the Medical
8 Care Savings Account Act or subsection (b) of Section
9 20 of the Medical Care Savings Account Act of 2000;

10 (D-10) For taxable years ending after December 31,
11 1997, an amount equal to any eligible remediation costs
12 that the individual deducted in computing adjusted
13 gross income and for which the individual claims a
14 credit under subsection (l) of Section 201;

15 (D-15) For taxable years 2001 and thereafter, an
16 amount equal to the bonus depreciation deduction taken
17 on the taxpayer's federal income tax return for the
18 taxable year under subsection (k) of Section 168 of the
19 Internal Revenue Code;

20 (D-16) If the taxpayer sells, transfers, abandons,
21 or otherwise disposes of property for which the
22 taxpayer was required in any taxable year to make an
23 addition modification under subparagraph (D-15), then
24 an amount equal to the aggregate amount of the
25 deductions taken in all taxable years under
26 subparagraph (Z) with respect to that property.

1 If the taxpayer continues to own property through
2 the last day of the last tax year for which the
3 taxpayer may claim a depreciation deduction for
4 federal income tax purposes and for which the taxpayer
5 was allowed in any taxable year to make a subtraction
6 modification under subparagraph (Z), then an amount
7 equal to that subtraction modification.

8 The taxpayer is required to make the addition
9 modification under this subparagraph only once with
10 respect to any one piece of property;

11 (D-17) For taxable years ending on or after
12 December 31, 2004, an amount equal to the amount
13 otherwise allowed as a deduction in computing base
14 income for interest paid, accrued, or incurred,
15 directly or indirectly, to a foreign person who would
16 be a member of the same unitary business group but for
17 the fact that foreign person's business activity
18 outside the United States is 80% or more of the foreign
19 person's total business activity. The addition
20 modification required by this subparagraph shall be
21 reduced to the extent that dividends were included in
22 base income of the unitary group for the same taxable
23 year and received by the taxpayer or by a member of the
24 taxpayer's unitary business group (including amounts
25 included in gross income under Sections 951 through 964
26 of the Internal Revenue Code and amounts included in

1 gross income under Section 78 of the Internal Revenue
2 Code) with respect to the stock of the same person to
3 whom the interest was paid, accrued, or incurred.

4 This paragraph shall not apply to the following:

5 (i) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to a foreign
7 person who is subject in a foreign country or
8 state, other than a state which requires mandatory
9 unitary reporting, to a tax on or measured by net
10 income with respect to such interest; or

11 (ii) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a foreign
13 person if the taxpayer can establish, based on a
14 preponderance of the evidence, both of the
15 following:

16 (a) the foreign person, during the same
17 taxable year, paid, accrued, or incurred, the
18 interest to a person that is not a related
19 member, and

20 (b) the transaction giving rise to the
21 interest expense between the taxpayer and the
22 foreign person did not have as a principal
23 purpose the avoidance of Illinois income tax,
24 and is paid pursuant to a contract or agreement
25 that reflects an arm's-length interest rate
26 and terms; or

1 (iii) the taxpayer can establish, based on
2 clear and convincing evidence, that the interest
3 paid, accrued, or incurred relates to a contract or
4 agreement entered into at arm's-length rates and
5 terms and the principal purpose for the payment is
6 not federal or Illinois tax avoidance; or

7 (iv) an item of interest paid, accrued, or
8 incurred, directly or indirectly, to a foreign
9 person if the taxpayer establishes by clear and
10 convincing evidence that the adjustments are
11 unreasonable; or if the taxpayer and the Director
12 agree in writing to the application or use of an
13 alternative method of apportionment under Section
14 304(f).

15 Nothing in this subsection shall preclude the
16 Director from making any other adjustment
17 otherwise allowed under Section 404 of this Act for
18 any tax year beginning after the effective date of
19 this amendment provided such adjustment is made
20 pursuant to regulation adopted by the Department
21 and such regulations provide methods and standards
22 by which the Department will utilize its authority
23 under Section 404 of this Act;

24 (D-18) For taxable years ending on or after
25 December 31, 2004, an amount equal to the amount of
26 intangible expenses and costs otherwise allowed as a

1 deduction in computing base income, and that were paid,
2 accrued, or incurred, directly or indirectly, to a
3 foreign person who would be a member of the same
4 unitary business group but for the fact that the
5 foreign person's business activity outside the United
6 States is 80% or more of that person's total business
7 activity. The addition modification required by this
8 subparagraph shall be reduced to the extent that
9 dividends were included in base income of the unitary
10 group for the same taxable year and received by the
11 taxpayer or by a member of the taxpayer's unitary
12 business group (including amounts included in gross
13 income under Sections 951 through 964 of the Internal
14 Revenue Code and amounts included in gross income under
15 Section 78 of the Internal Revenue Code) with respect
16 to the stock of the same person to whom the intangible
17 expenses and costs were directly or indirectly paid,
18 incurred, or accrued. The preceding sentence does not
19 apply to the extent that the same dividends caused a
20 reduction to the addition modification required under
21 Section 203(a)(2)(D-17) of this Act. As used in this
22 subparagraph, the term "intangible expenses and costs"
23 includes (1) expenses, losses, and costs for, or
24 related to, the direct or indirect acquisition, use,
25 maintenance or management, ownership, sale, exchange,
26 or any other disposition of intangible property; (2)

1 losses incurred, directly or indirectly, from
2 factoring transactions or discounting transactions;
3 (3) royalty, patent, technical, and copyright fees;
4 (4) licensing fees; and (5) other similar expenses and
5 costs. For purposes of this subparagraph, "intangible
6 property" includes patents, patent applications, trade
7 names, trademarks, service marks, copyrights, mask
8 works, trade secrets, and similar types of intangible
9 assets.

10 This paragraph shall not apply to the following:

11 (i) any item of intangible expenses or costs
12 paid, accrued, or incurred, directly or
13 indirectly, from a transaction with a foreign
14 person who is subject in a foreign country or
15 state, other than a state which requires mandatory
16 unitary reporting, to a tax on or measured by net
17 income with respect to such item; or

18 (ii) any item of intangible expense or cost
19 paid, accrued, or incurred, directly or
20 indirectly, if the taxpayer can establish, based
21 on a preponderance of the evidence, both of the
22 following:

23 (a) the foreign person during the same
24 taxable year paid, accrued, or incurred, the
25 intangible expense or cost to a person that is
26 not a related member, and

1 (b) the transaction giving rise to the
2 intangible expense or cost between the
3 taxpayer and the foreign person did not have as
4 a principal purpose the avoidance of Illinois
5 income tax, and is paid pursuant to a contract
6 or agreement that reflects arm's-length terms;
7 or

8 (iii) any item of intangible expense or cost
9 paid, accrued, or incurred, directly or
10 indirectly, from a transaction with a foreign
11 person if the taxpayer establishes by clear and
12 convincing evidence, that the adjustments are
13 unreasonable; or if the taxpayer and the Director
14 agree in writing to the application or use of an
15 alternative method of apportionment under Section
16 304(f);

17 Nothing in this subsection shall preclude the
18 Director from making any other adjustment
19 otherwise allowed under Section 404 of this Act for
20 any tax year beginning after the effective date of
21 this amendment provided such adjustment is made
22 pursuant to regulation adopted by the Department
23 and such regulations provide methods and standards
24 by which the Department will utilize its authority
25 under Section 404 of this Act;

26 (D-20) For taxable years beginning on or after

1 January 1, 2002, in the case of a distribution from a
2 qualified tuition program under Section 529 of the
3 Internal Revenue Code, other than (i) a distribution
4 from a College Savings Pool created under Section 16.5
5 of the State Treasurer Act or (ii) a distribution from
6 the Illinois Prepaid Tuition Trust Fund, an amount
7 equal to the amount excluded from gross income under
8 Section 529(c)(3)(B);

9 and by deducting from the total so obtained the sum of the
10 following amounts:

11 (E) For taxable years ending before December 31,
12 2001, any amount included in such total in respect of
13 any compensation (including but not limited to any
14 compensation paid or accrued to a serviceman while a
15 prisoner of war or missing in action) paid to a
16 resident by reason of being on active duty in the Armed
17 Forces of the United States and in respect of any
18 compensation paid or accrued to a resident who as a
19 governmental employee was a prisoner of war or missing
20 in action, and in respect of any compensation paid to a
21 resident in 1971 or thereafter for annual training
22 performed pursuant to Sections 502 and 503, Title 32,
23 United States Code as a member of the Illinois National
24 Guard. For taxable years ending on or after December
25 31, 2001, any amount included in such total in respect
26 of any compensation (including but not limited to any

1 compensation paid or accrued to a serviceman while a
2 prisoner of war or missing in action) paid to a
3 resident by reason of being a member of any component
4 of the Armed Forces of the United States and in respect
5 of any compensation paid or accrued to a resident who
6 as a governmental employee was a prisoner of war or
7 missing in action, and in respect of any compensation
8 paid to a resident in 2001 or thereafter by reason of
9 being a member of the Illinois National Guard. The
10 provisions of this amendatory Act of the 92nd General
11 Assembly are exempt from the provisions of Section 250;

12 (F) An amount equal to all amounts included in such
13 total pursuant to the provisions of Sections 402(a),
14 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
15 Internal Revenue Code, or included in such total as
16 distributions under the provisions of any retirement
17 or disability plan for employees of any governmental
18 agency or unit, or retirement payments to retired
19 partners, which payments are excluded in computing net
20 earnings from self employment by Section 1402 of the
21 Internal Revenue Code and regulations adopted pursuant
22 thereto;

23 (G) The valuation limitation amount;

24 (H) An amount equal to the amount of any tax
25 imposed by this Act which was refunded to the taxpayer
26 and included in such total for the taxable year;

1 (I) An amount equal to all amounts included in such
2 total pursuant to the provisions of Section 111 of the
3 Internal Revenue Code as a recovery of items previously
4 deducted from adjusted gross income in the computation
5 of taxable income;

6 (J) An amount equal to those dividends included in
7 such total which were paid by a corporation which
8 conducts business operations in an Enterprise Zone or
9 zones created under the Illinois Enterprise Zone Act or
10 a River Edge Redevelopment Zone or zones created under
11 the River Edge Redevelopment Zone Act, and conducts
12 substantially all of its operations in an Enterprise
13 Zone or zones or a River Edge Redevelopment Zone or
14 zones. This subparagraph (J) is exempt from the
15 provisions of Section 250;

16 (K) An amount equal to those dividends included in
17 such total that were paid by a corporation that
18 conducts business operations in a federally designated
19 Foreign Trade Zone or Sub-Zone and that is designated a
20 High Impact Business located in Illinois; provided
21 that dividends eligible for the deduction provided in
22 subparagraph (J) of paragraph (2) of this subsection
23 shall not be eligible for the deduction provided under
24 this subparagraph (K);

25 (L) For taxable years ending after December 31,
26 1983, an amount equal to all social security benefits

1 and railroad retirement benefits included in such
2 total pursuant to Sections 72(r) and 86 of the Internal
3 Revenue Code;

4 (M) With the exception of any amounts subtracted
5 under subparagraph (N), an amount equal to the sum of
6 all amounts disallowed as deductions by (i) Sections
7 171(a) (2), and 265(2) of the Internal Revenue Code of
8 1954, as now or hereafter amended, and all amounts of
9 expenses allocable to interest and disallowed as
10 deductions by Section 265(1) of the Internal Revenue
11 Code of 1954, as now or hereafter amended; and (ii) for
12 taxable years ending on or after August 13, 1999,
13 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
14 the Internal Revenue Code; the provisions of this
15 subparagraph are exempt from the provisions of Section
16 250;

17 (N) An amount equal to all amounts included in such
18 total which are exempt from taxation by this State
19 either by reason of its statutes or Constitution or by
20 reason of the Constitution, treaties or statutes of the
21 United States; provided that, in the case of any
22 statute of this State that exempts income derived from
23 bonds or other obligations from the tax imposed under
24 this Act, the amount exempted shall be the interest net
25 of bond premium amortization;

26 (O) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax
2 Increment Allocation Redevelopment Act;

3 (P) An amount equal to the amount of the deduction
4 used to compute the federal income tax credit for
5 restoration of substantial amounts held under claim of
6 right for the taxable year pursuant to Section 1341 of
7 the Internal Revenue Code of 1986;

8 (Q) An amount equal to any amounts included in such
9 total, received by the taxpayer as an acceleration in
10 the payment of life, endowment or annuity benefits in
11 advance of the time they would otherwise be payable as
12 an indemnity for a terminal illness;

13 (R) An amount equal to the amount of any federal or
14 State bonus paid to veterans of the Persian Gulf War;

15 (S) An amount, to the extent included in adjusted
16 gross income, equal to the amount of a contribution
17 made in the taxable year on behalf of the taxpayer to a
18 medical care savings account established under the
19 Medical Care Savings Account Act or the Medical Care
20 Savings Account Act of 2000 to the extent the
21 contribution is accepted by the account administrator
22 as provided in that Act;

23 (T) An amount, to the extent included in adjusted
24 gross income, equal to the amount of interest earned in
25 the taxable year on a medical care savings account
26 established under the Medical Care Savings Account Act

1 or the Medical Care Savings Account Act of 2000 on
2 behalf of the taxpayer, other than interest added
3 pursuant to item (D-5) of this paragraph (2);

4 (U) For one taxable year beginning on or after
5 January 1, 1994, an amount equal to the total amount of
6 tax imposed and paid under subsections (a) and (b) of
7 Section 201 of this Act on grant amounts received by
8 the taxpayer under the Nursing Home Grant Assistance
9 Act during the taxpayer's taxable years 1992 and 1993;

10 (V) Beginning with tax years ending on or after
11 December 31, 1995 and ending with tax years ending on
12 or before December 31, 2004, an amount equal to the
13 amount paid by a taxpayer who is a self-employed
14 taxpayer, a partner of a partnership, or a shareholder
15 in a Subchapter S corporation for health insurance or
16 long-term care insurance for that taxpayer or that
17 taxpayer's spouse or dependents, to the extent that the
18 amount paid for that health insurance or long-term care
19 insurance may be deducted under Section 213 of the
20 Internal Revenue Code of 1986, has not been deducted on
21 the federal income tax return of the taxpayer, and does
22 not exceed the taxable income attributable to that
23 taxpayer's income, self-employment income, or
24 Subchapter S corporation income; except that no
25 deduction shall be allowed under this item (V) if the
26 taxpayer is eligible to participate in any health

1 insurance or long-term care insurance plan of an
2 employer of the taxpayer or the taxpayer's spouse. The
3 amount of the health insurance and long-term care
4 insurance subtracted under this item (V) shall be
5 determined by multiplying total health insurance and
6 long-term care insurance premiums paid by the taxpayer
7 times a number that represents the fractional
8 percentage of eligible medical expenses under Section
9 213 of the Internal Revenue Code of 1986 not actually
10 deducted on the taxpayer's federal income tax return;

11 (W) For taxable years beginning on or after January
12 1, 1998, all amounts included in the taxpayer's federal
13 gross income in the taxable year from amounts converted
14 from a regular IRA to a Roth IRA. This paragraph is
15 exempt from the provisions of Section 250;

16 (X) For taxable year 1999 and thereafter, an amount
17 equal to the amount of any (i) distributions, to the
18 extent includible in gross income for federal income
19 tax purposes, made to the taxpayer because of his or
20 her status as a victim of persecution for racial or
21 religious reasons by Nazi Germany or any other Axis
22 regime or as an heir of the victim and (ii) items of
23 income, to the extent includible in gross income for
24 federal income tax purposes, attributable to, derived
25 from or in any way related to assets stolen from,
26 hidden from, or otherwise lost to a victim of

1 persecution for racial or religious reasons by Nazi
2 Germany or any other Axis regime immediately prior to,
3 during, and immediately after World War II, including,
4 but not limited to, interest on the proceeds receivable
5 as insurance under policies issued to a victim of
6 persecution for racial or religious reasons by Nazi
7 Germany or any other Axis regime by European insurance
8 companies immediately prior to and during World War II;
9 provided, however, this subtraction from federal
10 adjusted gross income does not apply to assets acquired
11 with such assets or with the proceeds from the sale of
12 such assets; provided, further, this paragraph shall
13 only apply to a taxpayer who was the first recipient of
14 such assets after their recovery and who is a victim of
15 persecution for racial or religious reasons by Nazi
16 Germany or any other Axis regime or as an heir of the
17 victim. The amount of and the eligibility for any
18 public assistance, benefit, or similar entitlement is
19 not affected by the inclusion of items (i) and (ii) of
20 this paragraph in gross income for federal income tax
21 purposes. This paragraph is exempt from the provisions
22 of Section 250;

23 (Y) For taxable years beginning on or after January
24 1, 2002 and ending on or before December 31, 2004,
25 moneys contributed in the taxable year to a College
26 Savings Pool account under Section 16.5 of the State

1 Treasurer Act, except that amounts excluded from gross
2 income under Section 529(c)(3)(C)(i) of the Internal
3 Revenue Code shall not be considered moneys
4 contributed under this subparagraph (Y). For taxable
5 years beginning on or after January 1, 2005, a maximum
6 of \$10,000 contributed in the taxable year to (i) a
7 College Savings Pool account under Section 16.5 of the
8 State Treasurer Act or (ii) the Illinois Prepaid
9 Tuition Trust Fund, except that amounts excluded from
10 gross income under Section 529(c)(3)(C)(i) of the
11 Internal Revenue Code shall not be considered moneys
12 contributed under this subparagraph (Y). This
13 subparagraph (Y) is exempt from the provisions of
14 Section 250;

15 (Z) For taxable years 2001 and thereafter, for the
16 taxable year in which the bonus depreciation deduction
17 is taken on the taxpayer's federal income tax return
18 under subsection (k) of Section 168 of the Internal
19 Revenue Code and for each applicable taxable year
20 thereafter, an amount equal to "x", where:

21 (1) "y" equals the amount of the depreciation
22 deduction taken for the taxable year on the
23 taxpayer's federal income tax return on property
24 for which the bonus depreciation deduction was
25 taken in any year under subsection (k) of Section
26 168 of the Internal Revenue Code, but not including

1 the bonus depreciation deduction;

2 (2) for taxable years ending on or before
3 December 31, 2005, "x" equals "y" multiplied by 30
4 and then divided by 70 (or "y" multiplied by
5 0.429); and

6 (3) for taxable years ending after December
7 31, 2005:

8 (i) for property on which a bonus
9 depreciation deduction of 30% of the adjusted
10 basis was taken, "x" equals "y" multiplied by
11 30 and then divided by 70 (or "y" multiplied by
12 0.429); and

13 (ii) for property on which a bonus
14 depreciation deduction of 50% of the adjusted
15 basis was taken, "x" equals "y" multiplied by
16 1.0.

17 The aggregate amount deducted under this
18 subparagraph in all taxable years for any one piece of
19 property may not exceed the amount of the bonus
20 depreciation deduction taken on that property on the
21 taxpayer's federal income tax return under subsection
22 (k) of Section 168 of the Internal Revenue Code. This
23 subparagraph (Z) is exempt from the provisions of
24 Section 250;

25 (AA) If the taxpayer sells, transfers, abandons,
26 or otherwise disposes of property for which the

1 taxpayer was required in any taxable year to make an
2 addition modification under subparagraph (D-15), then
3 an amount equal to that addition modification.

4 If the taxpayer continues to own property through
5 the last day of the last tax year for which the
6 taxpayer may claim a depreciation deduction for
7 federal income tax purposes and for which the taxpayer
8 was required in any taxable year to make an addition
9 modification under subparagraph (D-15), then an amount
10 equal to that addition modification.

11 The taxpayer is allowed to take the deduction under
12 this subparagraph only once with respect to any one
13 piece of property.

14 This subparagraph (AA) is exempt from the
15 provisions of Section 250;

16 (BB) Any amount included in adjusted gross income,
17 other than salary, received by a driver in a
18 ridesharing arrangement using a motor vehicle;

19 (CC) The amount of (i) any interest income (net of
20 the deductions allocable thereto) taken into account
21 for the taxable year with respect to a transaction with
22 a taxpayer that is required to make an addition
23 modification with respect to such transaction under
24 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
25 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
26 the amount of that addition modification, and (ii) any

1 income from intangible property (net of the deductions
2 allocable thereto) taken into account for the taxable
3 year with respect to a transaction with a taxpayer that
4 is required to make an addition modification with
5 respect to such transaction under Section
6 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
7 203(d)(2)(D-8), but not to exceed the amount of that
8 addition modification;

9 (DD) An amount equal to the interest income taken
10 into account for the taxable year (net of the
11 deductions allocable thereto) with respect to
12 transactions with a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity, but not to exceed the
17 addition modification required to be made for the same
18 taxable year under Section 203(a)(2)(D-17) for
19 interest paid, accrued, or incurred, directly or
20 indirectly, to the same foreign person; ~~and~~

21 (EE) An amount equal to the income from intangible
22 property taken into account for the taxable year (net
23 of the deductions allocable thereto) with respect to
24 transactions with a foreign person who would be a
25 member of the taxpayer's unitary business group but for
26 the fact that the foreign person's business activity

1 outside the United States is 80% or more of that
2 person's total business activity, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(a)(2)(D-18) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same foreign
7 person; and-

8 (FF) An amount equal to the amount set forth under
9 Section 20 of the Arts District Act.

10 (b) Corporations.

11 (1) In general. In the case of a corporation, base
12 income means an amount equal to the taxpayer's taxable
13 income for the taxable year as modified by paragraph (2).

14 (2) Modifications. The taxable income referred to in
15 paragraph (1) shall be modified by adding thereto the sum
16 of the following amounts:

17 (A) An amount equal to all amounts paid or accrued
18 to the taxpayer as interest and all distributions
19 received from regulated investment companies during
20 the taxable year to the extent excluded from gross
21 income in the computation of taxable income;

22 (B) An amount equal to the amount of tax imposed by
23 this Act to the extent deducted from gross income in
24 the computation of taxable income for the taxable year;

25 (C) In the case of a regulated investment company,

1 an amount equal to the excess of (i) the net long-term
2 capital gain for the taxable year, over (ii) the amount
3 of the capital gain dividends designated as such in
4 accordance with Section 852(b)(3)(C) of the Internal
5 Revenue Code and any amount designated under Section
6 852(b)(3)(D) of the Internal Revenue Code,
7 attributable to the taxable year (this amendatory Act
8 of 1995 (Public Act 89-89) is declarative of existing
9 law and is not a new enactment);

10 (D) The amount of any net operating loss deduction
11 taken in arriving at taxable income, other than a net
12 operating loss carried forward from a taxable year
13 ending prior to December 31, 1986;

14 (E) For taxable years in which a net operating loss
15 carryback or carryforward from a taxable year ending
16 prior to December 31, 1986 is an element of taxable
17 income under paragraph (1) of subsection (e) or
18 subparagraph (E) of paragraph (2) of subsection (e),
19 the amount by which addition modifications other than
20 those provided by this subparagraph (E) exceeded
21 subtraction modifications in such earlier taxable
22 year, with the following limitations applied in the
23 order that they are listed:

24 (i) the addition modification relating to the
25 net operating loss carried back or forward to the
26 taxable year from any taxable year ending prior to

1 December 31, 1986 shall be reduced by the amount of
2 addition modification under this subparagraph (E)
3 which related to that net operating loss and which
4 was taken into account in calculating the base
5 income of an earlier taxable year, and

6 (ii) the addition modification relating to the
7 net operating loss carried back or forward to the
8 taxable year from any taxable year ending prior to
9 December 31, 1986 shall not exceed the amount of
10 such carryback or carryforward;

11 For taxable years in which there is a net operating
12 loss carryback or carryforward from more than one other
13 taxable year ending prior to December 31, 1986, the
14 addition modification provided in this subparagraph
15 (E) shall be the sum of the amounts computed
16 independently under the preceding provisions of this
17 subparagraph (E) for each such taxable year;

18 (E-5) For taxable years ending after December 31,
19 1997, an amount equal to any eligible remediation costs
20 that the corporation deducted in computing adjusted
21 gross income and for which the corporation claims a
22 credit under subsection (l) of Section 201;

23 (E-10) For taxable years 2001 and thereafter, an
24 amount equal to the bonus depreciation deduction taken
25 on the taxpayer's federal income tax return for the
26 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code; and

2 (E-11) If the taxpayer sells, transfers, abandons,
3 or otherwise disposes of property for which the
4 taxpayer was required in any taxable year to make an
5 addition modification under subparagraph (E-10), then
6 an amount equal to the aggregate amount of the
7 deductions taken in all taxable years under
8 subparagraph (T) with respect to that property.

9 If the taxpayer continues to own property through
10 the last day of the last tax year for which the
11 taxpayer may claim a depreciation deduction for
12 federal income tax purposes and for which the taxpayer
13 was allowed in any taxable year to make a subtraction
14 modification under subparagraph (T), then an amount
15 equal to that subtraction modification.

16 The taxpayer is required to make the addition
17 modification under this subparagraph only once with
18 respect to any one piece of property;

19 (E-12) For taxable years ending on or after
20 December 31, 2004, an amount equal to the amount
21 otherwise allowed as a deduction in computing base
22 income for interest paid, accrued, or incurred,
23 directly or indirectly, to a foreign person who would
24 be a member of the same unitary business group but for
25 the fact the foreign person's business activity
26 outside the United States is 80% or more of the foreign

1 person's total business activity. The addition
2 modification required by this subparagraph shall be
3 reduced to the extent that dividends were included in
4 base income of the unitary group for the same taxable
5 year and received by the taxpayer or by a member of the
6 taxpayer's unitary business group (including amounts
7 included in gross income pursuant to Sections 951
8 through 964 of the Internal Revenue Code and amounts
9 included in gross income under Section 78 of the
10 Internal Revenue Code) with respect to the stock of the
11 same person to whom the interest was paid, accrued, or
12 incurred.

13 This paragraph shall not apply to the following:

14 (i) an item of interest paid, accrued, or
15 incurred, directly or indirectly, to a foreign
16 person who is subject in a foreign country or
17 state, other than a state which requires mandatory
18 unitary reporting, to a tax on or measured by net
19 income with respect to such interest; or

20 (ii) an item of interest paid, accrued, or
21 incurred, directly or indirectly, to a foreign
22 person if the taxpayer can establish, based on a
23 preponderance of the evidence, both of the
24 following:

25 (a) the foreign person, during the same
26 taxable year, paid, accrued, or incurred, the

1 interest to a person that is not a related
2 member, and

3 (b) the transaction giving rise to the
4 interest expense between the taxpayer and the
5 foreign person did not have as a principal
6 purpose the avoidance of Illinois income tax,
7 and is paid pursuant to a contract or agreement
8 that reflects an arm's-length interest rate
9 and terms; or

10 (iii) the taxpayer can establish, based on
11 clear and convincing evidence, that the interest
12 paid, accrued, or incurred relates to a contract or
13 agreement entered into at arm's-length rates and
14 terms and the principal purpose for the payment is
15 not federal or Illinois tax avoidance; or

16 (iv) an item of interest paid, accrued, or
17 incurred, directly or indirectly, to a foreign
18 person if the taxpayer establishes by clear and
19 convincing evidence that the adjustments are
20 unreasonable; or if the taxpayer and the Director
21 agree in writing to the application or use of an
22 alternative method of apportionment under Section
23 304(f).

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

1 any tax year beginning after the effective date of
2 this amendment provided such adjustment is made
3 pursuant to regulation adopted by the Department
4 and such regulations provide methods and standards
5 by which the Department will utilize its authority
6 under Section 404 of this Act;

7 (E-13) For taxable years ending on or after
8 December 31, 2004, an amount equal to the amount of
9 intangible expenses and costs otherwise allowed as a
10 deduction in computing base income, and that were paid,
11 accrued, or incurred, directly or indirectly, to a
12 foreign person who would be a member of the same
13 unitary business group but for the fact that the
14 foreign person's business activity outside the United
15 States is 80% or more of that person's total business
16 activity. The addition modification required by this
17 subparagraph shall be reduced to the extent that
18 dividends were included in base income of the unitary
19 group for the same taxable year and received by the
20 taxpayer or by a member of the taxpayer's unitary
21 business group (including amounts included in gross
22 income pursuant to Sections 951 through 964 of the
23 Internal Revenue Code and amounts included in gross
24 income under Section 78 of the Internal Revenue Code)
25 with respect to the stock of the same person to whom
26 the intangible expenses and costs were directly or

1 indirectly paid, incurred, or accrued. The preceding
2 sentence shall not apply to the extent that the same
3 dividends caused a reduction to the addition
4 modification required under Section 203(b)(2)(E-12) of
5 this Act. As used in this subparagraph, the term
6 "intangible expenses and costs" includes (1) expenses,
7 losses, and costs for, or related to, the direct or
8 indirect acquisition, use, maintenance or management,
9 ownership, sale, exchange, or any other disposition of
10 intangible property; (2) losses incurred, directly or
11 indirectly, from factoring transactions or discounting
12 transactions; (3) royalty, patent, technical, and
13 copyright fees; (4) licensing fees; and (5) other
14 similar expenses and costs. For purposes of this
15 subparagraph, "intangible property" includes patents,
16 patent applications, trade names, trademarks, service
17 marks, copyrights, mask works, trade secrets, and
18 similar types of intangible assets.

19 This paragraph shall not apply to the following:

20 (i) any item of intangible expenses or costs
21 paid, accrued, or incurred, directly or
22 indirectly, from a transaction with a foreign
23 person who is subject in a foreign country or
24 state, other than a state which requires mandatory
25 unitary reporting, to a tax on or measured by net
26 income with respect to such item; or

1 (ii) any item of intangible expense or cost
2 paid, accrued, or incurred, directly or
3 indirectly, if the taxpayer can establish, based
4 on a preponderance of the evidence, both of the
5 following:

6 (a) the foreign person during the same
7 taxable year paid, accrued, or incurred, the
8 intangible expense or cost to a person that is
9 not a related member, and

10 (b) the transaction giving rise to the
11 intangible expense or cost between the
12 taxpayer and the foreign person did not have as
13 a principal purpose the avoidance of Illinois
14 income tax, and is paid pursuant to a contract
15 or agreement that reflects arm's-length terms;
16 or

17 (iii) any item of intangible expense or cost
18 paid, accrued, or incurred, directly or
19 indirectly, from a transaction with a foreign
20 person if the taxpayer establishes by clear and
21 convincing evidence, that the adjustments are
22 unreasonable; or if the taxpayer and the Director
23 agree in writing to the application or use of an
24 alternative method of apportionment under Section
25 304(f);

26 Nothing in this subsection shall preclude the

1 Director from making any other adjustment
2 otherwise allowed under Section 404 of this Act for
3 any tax year beginning after the effective date of
4 this amendment provided such adjustment is made
5 pursuant to regulation adopted by the Department
6 and such regulations provide methods and standards
7 by which the Department will utilize its authority
8 under Section 404 of this Act;

9 and by deducting from the total so obtained the sum of the
10 following amounts:

11 (F) An amount equal to the amount of any tax
12 imposed by this Act which was refunded to the taxpayer
13 and included in such total for the taxable year;

14 (G) An amount equal to any amount included in such
15 total under Section 78 of the Internal Revenue Code;

16 (H) In the case of a regulated investment company,
17 an amount equal to the amount of exempt interest
18 dividends as defined in subsection (b) (5) of Section
19 852 of the Internal Revenue Code, paid to shareholders
20 for the taxable year;

21 (I) With the exception of any amounts subtracted
22 under subparagraph (J), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a) (2), and 265(a) (2) and amounts disallowed as
25 interest expense by Section 291(a) (3) of the Internal
26 Revenue Code, as now or hereafter amended, and all

1 amounts of expenses allocable to interest and
2 disallowed as deductions by Section 265(a)(1) of the
3 Internal Revenue Code, as now or hereafter amended; and
4 (ii) for taxable years ending on or after August 13,
5 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
6 832(b)(5)(B)(i) of the Internal Revenue Code; the
7 provisions of this subparagraph are exempt from the
8 provisions of Section 250;

9 (J) An amount equal to all amounts included in such
10 total which are exempt from taxation by this State
11 either by reason of its statutes or Constitution or by
12 reason of the Constitution, treaties or statutes of the
13 United States; provided that, in the case of any
14 statute of this State that exempts income derived from
15 bonds or other obligations from the tax imposed under
16 this Act, the amount exempted shall be the interest net
17 of bond premium amortization;

18 (K) An amount equal to those dividends included in
19 such total which were paid by a corporation which
20 conducts business operations in an Enterprise Zone or
21 zones created under the Illinois Enterprise Zone Act or
22 a River Edge Redevelopment Zone or zones created under
23 the River Edge Redevelopment Zone Act and conducts
24 substantially all of its operations in an Enterprise
25 Zone or zones or a River Edge Redevelopment Zone or
26 zones. This subparagraph (K) is exempt from the

1 provisions of Section 250;

2 (L) An amount equal to those dividends included in
3 such total that were paid by a corporation that
4 conducts business operations in a federally designated
5 Foreign Trade Zone or Sub-Zone and that is designated a
6 High Impact Business located in Illinois; provided
7 that dividends eligible for the deduction provided in
8 subparagraph (K) of paragraph 2 of this subsection
9 shall not be eligible for the deduction provided under
10 this subparagraph (L);

11 (M) For any taxpayer that is a financial
12 organization within the meaning of Section 304(c) of
13 this Act, an amount included in such total as interest
14 income from a loan or loans made by such taxpayer to a
15 borrower, to the extent that such a loan is secured by
16 property which is eligible for the Enterprise Zone
17 Investment Credit or the River Edge Redevelopment Zone
18 Investment Credit. To determine the portion of a loan
19 or loans that is secured by property eligible for a
20 Section 201(f) investment credit to the borrower, the
21 entire principal amount of the loan or loans between
22 the taxpayer and the borrower should be divided into
23 the basis of the Section 201(f) investment credit
24 property which secures the loan or loans, using for
25 this purpose the original basis of such property on the
26 date that it was placed in service in the Enterprise

1 Zone or the River Edge Redevelopment Zone. The
2 subtraction modification available to taxpayer in any
3 year under this subsection shall be that portion of the
4 total interest paid by the borrower with respect to
5 such loan attributable to the eligible property as
6 calculated under the previous sentence. This
7 subparagraph (M) is exempt from the provisions of
8 Section 250;

9 (M-1) For any taxpayer that is a financial
10 organization within the meaning of Section 304(c) of
11 this Act, an amount included in such total as interest
12 income from a loan or loans made by such taxpayer to a
13 borrower, to the extent that such a loan is secured by
14 property which is eligible for the High Impact Business
15 Investment Credit. To determine the portion of a loan
16 or loans that is secured by property eligible for a
17 Section 201(h) investment credit to the borrower, the
18 entire principal amount of the loan or loans between
19 the taxpayer and the borrower should be divided into
20 the basis of the Section 201(h) investment credit
21 property which secures the loan or loans, using for
22 this purpose the original basis of such property on the
23 date that it was placed in service in a federally
24 designated Foreign Trade Zone or Sub-Zone located in
25 Illinois. No taxpayer that is eligible for the
26 deduction provided in subparagraph (M) of paragraph

1 (2) of this subsection shall be eligible for the
2 deduction provided under this subparagraph (M-1). The
3 subtraction modification available to taxpayers in any
4 year under this subsection shall be that portion of the
5 total interest paid by the borrower with respect to
6 such loan attributable to the eligible property as
7 calculated under the previous sentence;

8 (N) Two times any contribution made during the
9 taxable year to a designated zone organization to the
10 extent that the contribution (i) qualifies as a
11 charitable contribution under subsection (c) of
12 Section 170 of the Internal Revenue Code and (ii) must,
13 by its terms, be used for a project approved by the
14 Department of Commerce and Economic Opportunity under
15 Section 11 of the Illinois Enterprise Zone Act or under
16 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment
17 Zone Act. This subparagraph (N) is exempt from the
18 provisions of Section 250;

19 (O) An amount equal to: (i) 85% for taxable years
20 ending on or before December 31, 1992, or, a percentage
21 equal to the percentage allowable under Section
22 243(a)(1) of the Internal Revenue Code of 1986 for
23 taxable years ending after December 31, 1992, of the
24 amount by which dividends included in taxable income
25 and received from a corporation that is not created or
26 organized under the laws of the United States or any

1 state or political subdivision thereof, including, for
2 taxable years ending on or after December 31, 1988,
3 dividends received or deemed received or paid or deemed
4 paid under Sections 951 through 964 of the Internal
5 Revenue Code, exceed the amount of the modification
6 provided under subparagraph (G) of paragraph (2) of
7 this subsection (b) which is related to such dividends;
8 plus (ii) 100% of the amount by which dividends,
9 included in taxable income and received, including,
10 for taxable years ending on or after December 31, 1988,
11 dividends received or deemed received or paid or deemed
12 paid under Sections 951 through 964 of the Internal
13 Revenue Code, from any such corporation specified in
14 clause (i) that would but for the provisions of Section
15 1504 (b) (3) of the Internal Revenue Code be treated as
16 a member of the affiliated group which includes the
17 dividend recipient, exceed the amount of the
18 modification provided under subparagraph (G) of
19 paragraph (2) of this subsection (b) which is related
20 to such dividends;

21 (P) An amount equal to any contribution made to a
22 job training project established pursuant to the Tax
23 Increment Allocation Redevelopment Act;

24 (Q) An amount equal to the amount of the deduction
25 used to compute the federal income tax credit for
26 restoration of substantial amounts held under claim of

1 right for the taxable year pursuant to Section 1341 of
2 the Internal Revenue Code of 1986;

3 (R) On and after July 20, 1999, in the case of an
4 attorney-in-fact with respect to whom an interinsurer
5 or a reciprocal insurer has made the election under
6 Section 835 of the Internal Revenue Code, 26 U.S.C.
7 835, an amount equal to the excess, if any, of the
8 amounts paid or incurred by that interinsurer or
9 reciprocal insurer in the taxable year to the
10 attorney-in-fact over the deduction allowed to that
11 interinsurer or reciprocal insurer with respect to the
12 attorney-in-fact under Section 835(b) of the Internal
13 Revenue Code for the taxable year; the provisions of
14 this subparagraph are exempt from the provisions of
15 Section 250;

16 (S) For taxable years ending on or after December
17 31, 1997, in the case of a Subchapter S corporation, an
18 amount equal to all amounts of income allocable to a
19 shareholder subject to the Personal Property Tax
20 Replacement Income Tax imposed by subsections (c) and
21 (d) of Section 201 of this Act, including amounts
22 allocable to organizations exempt from federal income
23 tax by reason of Section 501(a) of the Internal Revenue
24 Code. This subparagraph (S) is exempt from the
25 provisions of Section 250;

26 (T) For taxable years 2001 and thereafter, for the

1 taxable year in which the bonus depreciation deduction
2 is taken on the taxpayer's federal income tax return
3 under subsection (k) of Section 168 of the Internal
4 Revenue Code and for each applicable taxable year
5 thereafter, an amount equal to "x", where:

6 (1) "y" equals the amount of the depreciation
7 deduction taken for the taxable year on the
8 taxpayer's federal income tax return on property
9 for which the bonus depreciation deduction was
10 taken in any year under subsection (k) of Section
11 168 of the Internal Revenue Code, but not including
12 the bonus depreciation deduction;

13 (2) for taxable years ending on or before
14 December 31, 2005, "x" equals "y" multiplied by 30
15 and then divided by 70 (or "y" multiplied by
16 0.429); and

17 (3) for taxable years ending after December
18 31, 2005:

19 (i) for property on which a bonus
20 depreciation deduction of 30% of the adjusted
21 basis was taken, "x" equals "y" multiplied by
22 30 and then divided by 70 (or "y" multiplied by
23 0.429); and

24 (ii) for property on which a bonus
25 depreciation deduction of 50% of the adjusted
26 basis was taken, "x" equals "y" multiplied by

1 1.0.

2 The aggregate amount deducted under this
3 subparagraph in all taxable years for any one piece of
4 property may not exceed the amount of the bonus
5 depreciation deduction taken on that property on the
6 taxpayer's federal income tax return under subsection
7 (k) of Section 168 of the Internal Revenue Code. This
8 subparagraph (T) is exempt from the provisions of
9 Section 250;

10 (U) If the taxpayer sells, transfers, abandons, or
11 otherwise disposes of property for which the taxpayer
12 was required in any taxable year to make an addition
13 modification under subparagraph (E-10), then an amount
14 equal to that addition modification.

15 If the taxpayer continues to own property through
16 the last day of the last tax year for which the
17 taxpayer may claim a depreciation deduction for
18 federal income tax purposes and for which the taxpayer
19 was required in any taxable year to make an addition
20 modification under subparagraph (E-10), then an amount
21 equal to that addition modification.

22 The taxpayer is allowed to take the deduction under
23 this subparagraph only once with respect to any one
24 piece of property.

25 This subparagraph (U) is exempt from the
26 provisions of Section 250;

1 (V) The amount of: (i) any interest income (net of
2 the deductions allocable thereto) taken into account
3 for the taxable year with respect to a transaction with
4 a taxpayer that is required to make an addition
5 modification with respect to such transaction under
6 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
7 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
8 the amount of such addition modification and (ii) any
9 income from intangible property (net of the deductions
10 allocable thereto) taken into account for the taxable
11 year with respect to a transaction with a taxpayer that
12 is required to make an addition modification with
13 respect to such transaction under Section
14 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
15 203(d)(2)(D-8), but not to exceed the amount of such
16 addition modification;

17 (W) An amount equal to the interest income taken
18 into account for the taxable year (net of the
19 deductions allocable thereto) with respect to
20 transactions with a foreign person who would be a
21 member of the taxpayer's unitary business group but for
22 the fact that the foreign person's business activity
23 outside the United States is 80% or more of that
24 person's total business activity, but not to exceed the
25 addition modification required to be made for the same
26 taxable year under Section 203(b)(2)(E-12) for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same foreign person; and

3 (X) An amount equal to the income from intangible
4 property taken into account for the taxable year (net
5 of the deductions allocable thereto) with respect to
6 transactions with a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(b)(2)(E-13) for
13 intangible expenses and costs paid, accrued, or
14 incurred, directly or indirectly, to the same foreign
15 person.

16 (3) Special rule. For purposes of paragraph (2) (A),
17 "gross income" in the case of a life insurance company, for
18 tax years ending on and after December 31, 1994, shall mean
19 the gross investment income for the taxable year.

20 (c) Trusts and estates.

21 (1) In general. In the case of a trust or estate, base
22 income means an amount equal to the taxpayer's taxable
23 income for the taxable year as modified by paragraph (2).

24 (2) Modifications. Subject to the provisions of
25 paragraph (3), the taxable income referred to in paragraph

1 (1) shall be modified by adding thereto the sum of the
2 following amounts:

3 (A) An amount equal to all amounts paid or accrued
4 to the taxpayer as interest or dividends during the
5 taxable year to the extent excluded from gross income
6 in the computation of taxable income;

7 (B) In the case of (i) an estate, \$600; (ii) a
8 trust which, under its governing instrument, is
9 required to distribute all of its income currently,
10 \$300; and (iii) any other trust, \$100, but in each such
11 case, only to the extent such amount was deducted in
12 the computation of taxable income;

13 (C) An amount equal to the amount of tax imposed by
14 this Act to the extent deducted from gross income in
15 the computation of taxable income for the taxable year;

16 (D) The amount of any net operating loss deduction
17 taken in arriving at taxable income, other than a net
18 operating loss carried forward from a taxable year
19 ending prior to December 31, 1986;

20 (E) For taxable years in which a net operating loss
21 carryback or carryforward from a taxable year ending
22 prior to December 31, 1986 is an element of taxable
23 income under paragraph (1) of subsection (e) or
24 subparagraph (E) of paragraph (2) of subsection (e),
25 the amount by which addition modifications other than
26 those provided by this subparagraph (E) exceeded

1 subtraction modifications in such taxable year, with
2 the following limitations applied in the order that
3 they are listed:

4 (i) the addition modification relating to the
5 net operating loss carried back or forward to the
6 taxable year from any taxable year ending prior to
7 December 31, 1986 shall be reduced by the amount of
8 addition modification under this subparagraph (E)
9 which related to that net operating loss and which
10 was taken into account in calculating the base
11 income of an earlier taxable year, and

12 (ii) the addition modification relating to the
13 net operating loss carried back or forward to the
14 taxable year from any taxable year ending prior to
15 December 31, 1986 shall not exceed the amount of
16 such carryback or carryforward;

17 For taxable years in which there is a net operating
18 loss carryback or carryforward from more than one other
19 taxable year ending prior to December 31, 1986, the
20 addition modification provided in this subparagraph
21 (E) shall be the sum of the amounts computed
22 independently under the preceding provisions of this
23 subparagraph (E) for each such taxable year;

24 (F) For taxable years ending on or after January 1,
25 1989, an amount equal to the tax deducted pursuant to
26 Section 164 of the Internal Revenue Code if the trust

1 or estate is claiming the same tax for purposes of the
2 Illinois foreign tax credit under Section 601 of this
3 Act;

4 (G) An amount equal to the amount of the capital
5 gain deduction allowable under the Internal Revenue
6 Code, to the extent deducted from gross income in the
7 computation of taxable income;

8 (G-5) For taxable years ending after December 31,
9 1997, an amount equal to any eligible remediation costs
10 that the trust or estate deducted in computing adjusted
11 gross income and for which the trust or estate claims a
12 credit under subsection (l) of Section 201;

13 (G-10) For taxable years 2001 and thereafter, an
14 amount equal to the bonus depreciation deduction taken
15 on the taxpayer's federal income tax return for the
16 taxable year under subsection (k) of Section 168 of the
17 Internal Revenue Code; and

18 (G-11) If the taxpayer sells, transfers, abandons,
19 or otherwise disposes of property for which the
20 taxpayer was required in any taxable year to make an
21 addition modification under subparagraph (G-10), then
22 an amount equal to the aggregate amount of the
23 deductions taken in all taxable years under
24 subparagraph (R) with respect to that property.

25 If the taxpayer continues to own property through
26 the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for
2 federal income tax purposes and for which the taxpayer
3 was allowed in any taxable year to make a subtraction
4 modification under subparagraph (R), then an amount
5 equal to that subtraction modification.

6 The taxpayer is required to make the addition
7 modification under this subparagraph only once with
8 respect to any one piece of property;

9 (G-12) For taxable years ending on or after
10 December 31, 2004, an amount equal to the amount
11 otherwise allowed as a deduction in computing base
12 income for interest paid, accrued, or incurred,
13 directly or indirectly, to a foreign person who would
14 be a member of the same unitary business group but for
15 the fact that the foreign person's business activity
16 outside the United States is 80% or more of the foreign
17 person's total business activity. The addition
18 modification required by this subparagraph shall be
19 reduced to the extent that dividends were included in
20 base income of the unitary group for the same taxable
21 year and received by the taxpayer or by a member of the
22 taxpayer's unitary business group (including amounts
23 included in gross income pursuant to Sections 951
24 through 964 of the Internal Revenue Code and amounts
25 included in gross income under Section 78 of the
26 Internal Revenue Code) with respect to the stock of the

1 same person to whom the interest was paid, accrued, or
2 incurred.

3 This paragraph shall not apply to the following:

4 (i) an item of interest paid, accrued, or
5 incurred, directly or indirectly, to a foreign
6 person who is subject in a foreign country or
7 state, other than a state which requires mandatory
8 unitary reporting, to a tax on or measured by net
9 income with respect to such interest; or

10 (ii) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a foreign
12 person if the taxpayer can establish, based on a
13 preponderance of the evidence, both of the
14 following:

15 (a) the foreign person, during the same
16 taxable year, paid, accrued, or incurred, the
17 interest to a person that is not a related
18 member, and

19 (b) the transaction giving rise to the
20 interest expense between the taxpayer and the
21 foreign person did not have as a principal
22 purpose the avoidance of Illinois income tax,
23 and is paid pursuant to a contract or agreement
24 that reflects an arm's-length interest rate
25 and terms; or

26 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest
2 paid, accrued, or incurred relates to a contract or
3 agreement entered into at arm's-length rates and
4 terms and the principal purpose for the payment is
5 not federal or Illinois tax avoidance; or

6 (iv) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f).

14 Nothing in this subsection shall preclude the
15 Director from making any other adjustment
16 otherwise allowed under Section 404 of this Act for
17 any tax year beginning after the effective date of
18 this amendment provided such adjustment is made
19 pursuant to regulation adopted by the Department
20 and such regulations provide methods and standards
21 by which the Department will utilize its authority
22 under Section 404 of this Act;

23 (G-13) For taxable years ending on or after
24 December 31, 2004, an amount equal to the amount of
25 intangible expenses and costs otherwise allowed as a
26 deduction in computing base income, and that were paid,

1 accrued, or incurred, directly or indirectly, to a
2 foreign person who would be a member of the same
3 unitary business group but for the fact that the
4 foreign person's business activity outside the United
5 States is 80% or more of that person's total business
6 activity. The addition modification required by this
7 subparagraph shall be reduced to the extent that
8 dividends were included in base income of the unitary
9 group for the same taxable year and received by the
10 taxpayer or by a member of the taxpayer's unitary
11 business group (including amounts included in gross
12 income pursuant to Sections 951 through 964 of the
13 Internal Revenue Code and amounts included in gross
14 income under Section 78 of the Internal Revenue Code)
15 with respect to the stock of the same person to whom
16 the intangible expenses and costs were directly or
17 indirectly paid, incurred, or accrued. The preceding
18 sentence shall not apply to the extent that the same
19 dividends caused a reduction to the addition
20 modification required under Section 203(c)(2)(G-12) of
21 this Act. As used in this subparagraph, the term
22 "intangible expenses and costs" includes: (1)
23 expenses, losses, and costs for or related to the
24 direct or indirect acquisition, use, maintenance or
25 management, ownership, sale, exchange, or any other
26 disposition of intangible property; (2) losses

1 incurred, directly or indirectly, from factoring
2 transactions or discounting transactions; (3) royalty,
3 patent, technical, and copyright fees; (4) licensing
4 fees; and (5) other similar expenses and costs. For
5 purposes of this subparagraph, "intangible property"
6 includes patents, patent applications, trade names,
7 trademarks, service marks, copyrights, mask works,
8 trade secrets, and similar types of intangible assets.

9 This paragraph shall not apply to the following:

10 (i) any item of intangible expenses or costs
11 paid, accrued, or incurred, directly or
12 indirectly, from a transaction with a foreign
13 person who is subject in a foreign country or
14 state, other than a state which requires mandatory
15 unitary reporting, to a tax on or measured by net
16 income with respect to such item; or

17 (ii) any item of intangible expense or cost
18 paid, accrued, or incurred, directly or
19 indirectly, if the taxpayer can establish, based
20 on a preponderance of the evidence, both of the
21 following:

22 (a) the foreign person during the same
23 taxable year paid, accrued, or incurred, the
24 intangible expense or cost to a person that is
25 not a related member, and

26 (b) the transaction giving rise to the

1 intangible expense or cost between the
2 taxpayer and the foreign person did not have as
3 a principal purpose the avoidance of Illinois
4 income tax, and is paid pursuant to a contract
5 or agreement that reflects arm's-length terms;
6 or

7 (iii) any item of intangible expense or cost
8 paid, accrued, or incurred, directly or
9 indirectly, from a transaction with a foreign
10 person if the taxpayer establishes by clear and
11 convincing evidence, that the adjustments are
12 unreasonable; or if the taxpayer and the Director
13 agree in writing to the application or use of an
14 alternative method of apportionment under Section
15 304(f);

16 Nothing in this subsection shall preclude the
17 Director from making any other adjustment
18 otherwise allowed under Section 404 of this Act for
19 any tax year beginning after the effective date of
20 this amendment provided such adjustment is made
21 pursuant to regulation adopted by the Department
22 and such regulations provide methods and standards
23 by which the Department will utilize its authority
24 under Section 404 of this Act;

25 and by deducting from the total so obtained the sum of the
26 following amounts:

1 (H) An amount equal to all amounts included in such
2 total pursuant to the provisions of Sections 402(a),
3 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
4 Internal Revenue Code or included in such total as
5 distributions under the provisions of any retirement
6 or disability plan for employees of any governmental
7 agency or unit, or retirement payments to retired
8 partners, which payments are excluded in computing net
9 earnings from self employment by Section 1402 of the
10 Internal Revenue Code and regulations adopted pursuant
11 thereto;

12 (I) The valuation limitation amount;

13 (J) An amount equal to the amount of any tax
14 imposed by this Act which was refunded to the taxpayer
15 and included in such total for the taxable year;

16 (K) An amount equal to all amounts included in
17 taxable income as modified by subparagraphs (A), (B),
18 (C), (D), (E), (F) and (G) which are exempt from
19 taxation by this State either by reason of its statutes
20 or Constitution or by reason of the Constitution,
21 treaties or statutes of the United States; provided
22 that, in the case of any statute of this State that
23 exempts income derived from bonds or other obligations
24 from the tax imposed under this Act, the amount
25 exempted shall be the interest net of bond premium
26 amortization;

1 (L) With the exception of any amounts subtracted
2 under subparagraph (K), an amount equal to the sum of
3 all amounts disallowed as deductions by (i) Sections
4 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
5 as now or hereafter amended, and all amounts of
6 expenses allocable to interest and disallowed as
7 deductions by Section 265(1) of the Internal Revenue
8 Code of 1954, as now or hereafter amended; and (ii) for
9 taxable years ending on or after August 13, 1999,
10 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
11 the Internal Revenue Code; the provisions of this
12 subparagraph are exempt from the provisions of Section
13 250;

14 (M) An amount equal to those dividends included in
15 such total which were paid by a corporation which
16 conducts business operations in an Enterprise Zone or
17 zones created under the Illinois Enterprise Zone Act or
18 a River Edge Redevelopment Zone or zones created under
19 the River Edge Redevelopment Zone Act and conducts
20 substantially all of its operations in an Enterprise
21 Zone or Zones or a River Edge Redevelopment Zone or
22 zones. This subparagraph (M) is exempt from the
23 provisions of Section 250;

24 (N) An amount equal to any contribution made to a
25 job training project established pursuant to the Tax
26 Increment Allocation Redevelopment Act;

1 (O) An amount equal to those dividends included in
2 such total that were paid by a corporation that
3 conducts business operations in a federally designated
4 Foreign Trade Zone or Sub-Zone and that is designated a
5 High Impact Business located in Illinois; provided
6 that dividends eligible for the deduction provided in
7 subparagraph (M) of paragraph (2) of this subsection
8 shall not be eligible for the deduction provided under
9 this subparagraph (O);

10 (P) An amount equal to the amount of the deduction
11 used to compute the federal income tax credit for
12 restoration of substantial amounts held under claim of
13 right for the taxable year pursuant to Section 1341 of
14 the Internal Revenue Code of 1986;

15 (Q) For taxable year 1999 and thereafter, an amount
16 equal to the amount of any (i) distributions, to the
17 extent includible in gross income for federal income
18 tax purposes, made to the taxpayer because of his or
19 her status as a victim of persecution for racial or
20 religious reasons by Nazi Germany or any other Axis
21 regime or as an heir of the victim and (ii) items of
22 income, to the extent includible in gross income for
23 federal income tax purposes, attributable to, derived
24 from or in any way related to assets stolen from,
25 hidden from, or otherwise lost to a victim of
26 persecution for racial or religious reasons by Nazi

1 Germany or any other Axis regime immediately prior to,
2 during, and immediately after World War II, including,
3 but not limited to, interest on the proceeds receivable
4 as insurance under policies issued to a victim of
5 persecution for racial or religious reasons by Nazi
6 Germany or any other Axis regime by European insurance
7 companies immediately prior to and during World War II;
8 provided, however, this subtraction from federal
9 adjusted gross income does not apply to assets acquired
10 with such assets or with the proceeds from the sale of
11 such assets; provided, further, this paragraph shall
12 only apply to a taxpayer who was the first recipient of
13 such assets after their recovery and who is a victim of
14 persecution for racial or religious reasons by Nazi
15 Germany or any other Axis regime or as an heir of the
16 victim. The amount of and the eligibility for any
17 public assistance, benefit, or similar entitlement is
18 not affected by the inclusion of items (i) and (ii) of
19 this paragraph in gross income for federal income tax
20 purposes. This paragraph is exempt from the provisions
21 of Section 250;

22 (R) For taxable years 2001 and thereafter, for the
23 taxable year in which the bonus depreciation deduction
24 is taken on the taxpayer's federal income tax return
25 under subsection (k) of Section 168 of the Internal
26 Revenue Code and for each applicable taxable year

1 thereafter, an amount equal to "x", where:

2 (1) "y" equals the amount of the depreciation
3 deduction taken for the taxable year on the
4 taxpayer's federal income tax return on property
5 for which the bonus depreciation deduction was
6 taken in any year under subsection (k) of Section
7 168 of the Internal Revenue Code, but not including
8 the bonus depreciation deduction;

9 (2) for taxable years ending on or before
10 December 31, 2005, "x" equals "y" multiplied by 30
11 and then divided by 70 (or "y" multiplied by
12 0.429); and

13 (3) for taxable years ending after December
14 31, 2005:

15 (i) for property on which a bonus
16 depreciation deduction of 30% of the adjusted
17 basis was taken, "x" equals "y" multiplied by
18 30 and then divided by 70 (or "y" multiplied by
19 0.429); and

20 (ii) for property on which a bonus
21 depreciation deduction of 50% of the adjusted
22 basis was taken, "x" equals "y" multiplied by
23 1.0.

24 The aggregate amount deducted under this
25 subparagraph in all taxable years for any one piece of
26 property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code. This
4 subparagraph (R) is exempt from the provisions of
5 Section 250;

6 (S) If the taxpayer sells, transfers, abandons, or
7 otherwise disposes of property for which the taxpayer
8 was required in any taxable year to make an addition
9 modification under subparagraph (G-10), then an amount
10 equal to that addition modification.

11 If the taxpayer continues to own property through
12 the last day of the last tax year for which the
13 taxpayer may claim a depreciation deduction for
14 federal income tax purposes and for which the taxpayer
15 was required in any taxable year to make an addition
16 modification under subparagraph (G-10), then an amount
17 equal to that addition modification.

18 The taxpayer is allowed to take the deduction under
19 this subparagraph only once with respect to any one
20 piece of property.

21 This subparagraph (S) is exempt from the
22 provisions of Section 250;

23 (T) The amount of (i) any interest income (net of
24 the deductions allocable thereto) taken into account
25 for the taxable year with respect to a transaction with
26 a taxpayer that is required to make an addition

1 modification with respect to such transaction under
2 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
3 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
4 the amount of such addition modification and (ii) any
5 income from intangible property (net of the deductions
6 allocable thereto) taken into account for the taxable
7 year with respect to a transaction with a taxpayer that
8 is required to make an addition modification with
9 respect to such transaction under Section
10 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
11 203(d)(2)(D-8), but not to exceed the amount of such
12 addition modification;

13 (U) An amount equal to the interest income taken
14 into account for the taxable year (net of the
15 deductions allocable thereto) with respect to
16 transactions with a foreign person who would be a
17 member of the taxpayer's unitary business group but for
18 the fact the foreign person's business activity
19 outside the United States is 80% or more of that
20 person's total business activity, but not to exceed the
21 addition modification required to be made for the same
22 taxable year under Section 203(c)(2)(G-12) for
23 interest paid, accrued, or incurred, directly or
24 indirectly, to the same foreign person; and

25 (V) An amount equal to the income from intangible
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to
2 transactions with a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(c)(2)(G-13) for
9 intangible expenses and costs paid, accrued, or
10 incurred, directly or indirectly, to the same foreign
11 person.

12 (3) Limitation. The amount of any modification
13 otherwise required under this subsection shall, under
14 regulations prescribed by the Department, be adjusted by
15 any amounts included therein which were properly paid,
16 credited, or required to be distributed, or permanently set
17 aside for charitable purposes pursuant to Internal Revenue
18 Code Section 642(c) during the taxable year.

19 (d) Partnerships.

20 (1) In general. In the case of a partnership, base
21 income means an amount equal to the taxpayer's taxable
22 income for the taxable year as modified by paragraph (2).

23 (2) Modifications. The taxable income referred to in
24 paragraph (1) shall be modified by adding thereto the sum
25 of the following amounts:

1 (A) An amount equal to all amounts paid or accrued
2 to the taxpayer as interest or dividends during the
3 taxable year to the extent excluded from gross income
4 in the computation of taxable income;

5 (B) An amount equal to the amount of tax imposed by
6 this Act to the extent deducted from gross income for
7 the taxable year;

8 (C) The amount of deductions allowed to the
9 partnership pursuant to Section 707 (c) of the Internal
10 Revenue Code in calculating its taxable income;

11 (D) An amount equal to the amount of the capital
12 gain deduction allowable under the Internal Revenue
13 Code, to the extent deducted from gross income in the
14 computation of taxable income;

15 (D-5) For taxable years 2001 and thereafter, an
16 amount equal to the bonus depreciation deduction taken
17 on the taxpayer's federal income tax return for the
18 taxable year under subsection (k) of Section 168 of the
19 Internal Revenue Code;

20 (D-6) If the taxpayer sells, transfers, abandons,
21 or otherwise disposes of property for which the
22 taxpayer was required in any taxable year to make an
23 addition modification under subparagraph (D-5), then
24 an amount equal to the aggregate amount of the
25 deductions taken in all taxable years under
26 subparagraph (O) with respect to that property.

1 If the taxpayer continues to own property through
2 the last day of the last tax year for which the
3 taxpayer may claim a depreciation deduction for
4 federal income tax purposes and for which the taxpayer
5 was allowed in any taxable year to make a subtraction
6 modification under subparagraph (O), then an amount
7 equal to that subtraction modification.

8 The taxpayer is required to make the addition
9 modification under this subparagraph only once with
10 respect to any one piece of property;

11 (D-7) For taxable years ending on or after December
12 31, 2004, an amount equal to the amount otherwise
13 allowed as a deduction in computing base income for
14 interest paid, accrued, or incurred, directly or
15 indirectly, to a foreign person who would be a member
16 of the same unitary business group but for the fact the
17 foreign person's business activity outside the United
18 States is 80% or more of the foreign person's total
19 business activity. The addition modification required
20 by this subparagraph shall be reduced to the extent
21 that dividends were included in base income of the
22 unitary group for the same taxable year and received by
23 the taxpayer or by a member of the taxpayer's unitary
24 business group (including amounts included in gross
25 income pursuant to Sections 951 through 964 of the
26 Internal Revenue Code and amounts included in gross

1 income under Section 78 of the Internal Revenue Code)
2 with respect to the stock of the same person to whom
3 the interest was paid, accrued, or incurred.

4 This paragraph shall not apply to the following:

5 (i) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to a foreign
7 person who is subject in a foreign country or
8 state, other than a state which requires mandatory
9 unitary reporting, to a tax on or measured by net
10 income with respect to such interest; or

11 (ii) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a foreign
13 person if the taxpayer can establish, based on a
14 preponderance of the evidence, both of the
15 following:

16 (a) the foreign person, during the same
17 taxable year, paid, accrued, or incurred, the
18 interest to a person that is not a related
19 member, and

20 (b) the transaction giving rise to the
21 interest expense between the taxpayer and the
22 foreign person did not have as a principal
23 purpose the avoidance of Illinois income tax,
24 and is paid pursuant to a contract or agreement
25 that reflects an arm's-length interest rate
26 and terms; or

1 (iii) the taxpayer can establish, based on
2 clear and convincing evidence, that the interest
3 paid, accrued, or incurred relates to a contract or
4 agreement entered into at arm's-length rates and
5 terms and the principal purpose for the payment is
6 not federal or Illinois tax avoidance; or

7 (iv) an item of interest paid, accrued, or
8 incurred, directly or indirectly, to a foreign
9 person if the taxpayer establishes by clear and
10 convincing evidence that the adjustments are
11 unreasonable; or if the taxpayer and the Director
12 agree in writing to the application or use of an
13 alternative method of apportionment under Section
14 304(f).

15 Nothing in this subsection shall preclude the
16 Director from making any other adjustment
17 otherwise allowed under Section 404 of this Act for
18 any tax year beginning after the effective date of
19 this amendment provided such adjustment is made
20 pursuant to regulation adopted by the Department
21 and such regulations provide methods and standards
22 by which the Department will utilize its authority
23 under Section 404 of this Act; and

24 (D-8) For taxable years ending on or after December
25 31, 2004, an amount equal to the amount of intangible
26 expenses and costs otherwise allowed as a deduction in

1 computing base income, and that were paid, accrued, or
2 incurred, directly or indirectly, to a foreign person
3 who would be a member of the same unitary business
4 group but for the fact that the foreign person's
5 business activity outside the United States is 80% or
6 more of that person's total business activity. The
7 addition modification required by this subparagraph
8 shall be reduced to the extent that dividends were
9 included in base income of the unitary group for the
10 same taxable year and received by the taxpayer or by a
11 member of the taxpayer's unitary business group
12 (including amounts included in gross income pursuant
13 to Sections 951 through 964 of the Internal Revenue
14 Code and amounts included in gross income under Section
15 78 of the Internal Revenue Code) with respect to the
16 stock of the same person to whom the intangible
17 expenses and costs were directly or indirectly paid,
18 incurred or accrued. The preceding sentence shall not
19 apply to the extent that the same dividends caused a
20 reduction to the addition modification required under
21 Section 203(d)(2)(D-7) of this Act. As used in this
22 subparagraph, the term "intangible expenses and costs"
23 includes (1) expenses, losses, and costs for, or
24 related to, the direct or indirect acquisition, use,
25 maintenance or management, ownership, sale, exchange,
26 or any other disposition of intangible property; (2)

1 losses incurred, directly or indirectly, from
2 factoring transactions or discounting transactions;
3 (3) royalty, patent, technical, and copyright fees;
4 (4) licensing fees; and (5) other similar expenses and
5 costs. For purposes of this subparagraph, "intangible
6 property" includes patents, patent applications, trade
7 names, trademarks, service marks, copyrights, mask
8 works, trade secrets, and similar types of intangible
9 assets;

10 This paragraph shall not apply to the following:

11 (i) any item of intangible expenses or costs
12 paid, accrued, or incurred, directly or
13 indirectly, from a transaction with a foreign
14 person who is subject in a foreign country or
15 state, other than a state which requires mandatory
16 unitary reporting, to a tax on or measured by net
17 income with respect to such item; or

18 (ii) any item of intangible expense or cost
19 paid, accrued, or incurred, directly or
20 indirectly, if the taxpayer can establish, based
21 on a preponderance of the evidence, both of the
22 following:

23 (a) the foreign person during the same
24 taxable year paid, accrued, or incurred, the
25 intangible expense or cost to a person that is
26 not a related member, and

1 (b) the transaction giving rise to the
2 intangible expense or cost between the
3 taxpayer and the foreign person did not have as
4 a principal purpose the avoidance of Illinois
5 income tax, and is paid pursuant to a contract
6 or agreement that reflects arm's-length terms;
7 or

8 (iii) any item of intangible expense or cost
9 paid, accrued, or incurred, directly or
10 indirectly, from a transaction with a foreign
11 person if the taxpayer establishes by clear and
12 convincing evidence, that the adjustments are
13 unreasonable; or if the taxpayer and the Director
14 agree in writing to the application or use of an
15 alternative method of apportionment under Section
16 304(f);

17 Nothing in this subsection shall preclude the
18 Director from making any other adjustment
19 otherwise allowed under Section 404 of this Act for
20 any tax year beginning after the effective date of
21 this amendment provided such adjustment is made
22 pursuant to regulation adopted by the Department
23 and such regulations provide methods and standards
24 by which the Department will utilize its authority
25 under Section 404 of this Act;

26 and by deducting from the total so obtained the following

1 amounts:

2 (E) The valuation limitation amount;

3 (F) An amount equal to the amount of any tax
4 imposed by this Act which was refunded to the taxpayer
5 and included in such total for the taxable year;

6 (G) An amount equal to all amounts included in
7 taxable income as modified by subparagraphs (A), (B),
8 (C) and (D) which are exempt from taxation by this
9 State either by reason of its statutes or Constitution
10 or by reason of the Constitution, treaties or statutes
11 of the United States; provided that, in the case of any
12 statute of this State that exempts income derived from
13 bonds or other obligations from the tax imposed under
14 this Act, the amount exempted shall be the interest net
15 of bond premium amortization;

16 (H) Any income of the partnership which
17 constitutes personal service income as defined in
18 Section 1348 (b) (1) of the Internal Revenue Code (as
19 in effect December 31, 1981) or a reasonable allowance
20 for compensation paid or accrued for services rendered
21 by partners to the partnership, whichever is greater;

22 (I) An amount equal to all amounts of income
23 distributable to an entity subject to the Personal
24 Property Tax Replacement Income Tax imposed by
25 subsections (c) and (d) of Section 201 of this Act
26 including amounts distributable to organizations

1 exempt from federal income tax by reason of Section
2 501(a) of the Internal Revenue Code;

3 (J) With the exception of any amounts subtracted
4 under subparagraph (G), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2), and 265(2) of the Internal Revenue Code of
7 1954, as now or hereafter amended, and all amounts of
8 expenses allocable to interest and disallowed as
9 deductions by Section 265(1) of the Internal Revenue
10 Code, as now or hereafter amended; and (ii) for taxable
11 years ending on or after August 13, 1999, Sections
12 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
13 Internal Revenue Code; the provisions of this
14 subparagraph are exempt from the provisions of Section
15 250;

16 (K) An amount equal to those dividends included in
17 such total which were paid by a corporation which
18 conducts business operations in an Enterprise Zone or
19 zones created under the Illinois Enterprise Zone Act,
20 enacted by the 82nd General Assembly, or a River Edge
21 Redevelopment Zone or zones created under the River
22 Edge Redevelopment Zone Act and conducts substantially
23 all of its operations in an Enterprise Zone or Zones or
24 from a River Edge Redevelopment Zone or zones. This
25 subparagraph (K) is exempt from the provisions of
26 Section 250;

1 (L) An amount equal to any contribution made to a
2 job training project established pursuant to the Real
3 Property Tax Increment Allocation Redevelopment Act;

4 (M) An amount equal to those dividends included in
5 such total that were paid by a corporation that
6 conducts business operations in a federally designated
7 Foreign Trade Zone or Sub-Zone and that is designated a
8 High Impact Business located in Illinois; provided
9 that dividends eligible for the deduction provided in
10 subparagraph (K) of paragraph (2) of this subsection
11 shall not be eligible for the deduction provided under
12 this subparagraph (M);

13 (N) An amount equal to the amount of the deduction
14 used to compute the federal income tax credit for
15 restoration of substantial amounts held under claim of
16 right for the taxable year pursuant to Section 1341 of
17 the Internal Revenue Code of 1986;

18 (O) For taxable years 2001 and thereafter, for the
19 taxable year in which the bonus depreciation deduction
20 is taken on the taxpayer's federal income tax return
21 under subsection (k) of Section 168 of the Internal
22 Revenue Code and for each applicable taxable year
23 thereafter, an amount equal to "x", where:

24 (1) "y" equals the amount of the depreciation
25 deduction taken for the taxable year on the
26 taxpayer's federal income tax return on property

1 for which the bonus depreciation deduction was
2 taken in any year under subsection (k) of Section
3 168 of the Internal Revenue Code, but not including
4 the bonus depreciation deduction;

5 (2) for taxable years ending on or before
6 December 31, 2005, "x" equals "y" multiplied by 30
7 and then divided by 70 (or "y" multiplied by
8 0.429); and

9 (3) for taxable years ending after December
10 31, 2005:

11 (i) for property on which a bonus
12 depreciation deduction of 30% of the adjusted
13 basis was taken, "x" equals "y" multiplied by
14 30 and then divided by 70 (or "y" multiplied by
15 0.429); and

16 (ii) for property on which a bonus
17 depreciation deduction of 50% of the adjusted
18 basis was taken, "x" equals "y" multiplied by
19 1.0.

20 The aggregate amount deducted under this
21 subparagraph in all taxable years for any one piece of
22 property may not exceed the amount of the bonus
23 depreciation deduction taken on that property on the
24 taxpayer's federal income tax return under subsection
25 (k) of Section 168 of the Internal Revenue Code. This
26 subparagraph (O) is exempt from the provisions of

1 Section 250;

2 (P) If the taxpayer sells, transfers, abandons, or
3 otherwise disposes of property for which the taxpayer
4 was required in any taxable year to make an addition
5 modification under subparagraph (D-5), then an amount
6 equal to that addition modification.

7 If the taxpayer continues to own property through
8 the last day of the last tax year for which the
9 taxpayer may claim a depreciation deduction for
10 federal income tax purposes and for which the taxpayer
11 was required in any taxable year to make an addition
12 modification under subparagraph (D-5), then an amount
13 equal to that addition modification.

14 The taxpayer is allowed to take the deduction under
15 this subparagraph only once with respect to any one
16 piece of property.

17 This subparagraph (P) is exempt from the
18 provisions of Section 250;

19 (Q) The amount of (i) any interest income (net of
20 the deductions allocable thereto) taken into account
21 for the taxable year with respect to a transaction with
22 a taxpayer that is required to make an addition
23 modification with respect to such transaction under
24 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
25 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
26 the amount of such addition modification and (ii) any

1 income from intangible property (net of the deductions
2 allocable thereto) taken into account for the taxable
3 year with respect to a transaction with a taxpayer that
4 is required to make an addition modification with
5 respect to such transaction under Section
6 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
7 203(d)(2)(D-8), but not to exceed the amount of such
8 addition modification;

9 (R) An amount equal to the interest income taken
10 into account for the taxable year (net of the
11 deductions allocable thereto) with respect to
12 transactions with a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity, but not to exceed the
17 addition modification required to be made for the same
18 taxable year under Section 203(d)(2)(D-7) for interest
19 paid, accrued, or incurred, directly or indirectly, to
20 the same foreign person; and

21 (S) An amount equal to the income from intangible
22 property taken into account for the taxable year (net
23 of the deductions allocable thereto) with respect to
24 transactions with a foreign person who would be a
25 member of the taxpayer's unitary business group but for
26 the fact that the foreign person's business activity

1 outside the United States is 80% or more of that
2 person's total business activity, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(d)(2)(D-8) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same foreign
7 person.

8 (e) Gross income; adjusted gross income; taxable income.

9 (1) In general. Subject to the provisions of paragraph
10 (2) and subsection (b) (3), for purposes of this Section
11 and Section 803(e), a taxpayer's gross income, adjusted
12 gross income, or taxable income for the taxable year shall
13 mean the amount of gross income, adjusted gross income or
14 taxable income properly reportable for federal income tax
15 purposes for the taxable year under the provisions of the
16 Internal Revenue Code. Taxable income may be less than
17 zero. However, for taxable years ending on or after
18 December 31, 1986, net operating loss carryforwards from
19 taxable years ending prior to December 31, 1986, may not
20 exceed the sum of federal taxable income for the taxable
21 year before net operating loss deduction, plus the excess
22 of addition modifications over subtraction modifications
23 for the taxable year. For taxable years ending prior to
24 December 31, 1986, taxable income may never be an amount in
25 excess of the net operating loss for the taxable year as

1 defined in subsections (c) and (d) of Section 172 of the
2 Internal Revenue Code, provided that when taxable income of
3 a corporation (other than a Subchapter S corporation),
4 trust, or estate is less than zero and addition
5 modifications, other than those provided by subparagraph
6 (E) of paragraph (2) of subsection (b) for corporations or
7 subparagraph (E) of paragraph (2) of subsection (c) for
8 trusts and estates, exceed subtraction modifications, an
9 addition modification must be made under those
10 subparagraphs for any other taxable year to which the
11 taxable income less than zero (net operating loss) is
12 applied under Section 172 of the Internal Revenue Code or
13 under subparagraph (E) of paragraph (2) of this subsection
14 (e) applied in conjunction with Section 172 of the Internal
15 Revenue Code.

16 (2) Special rule. For purposes of paragraph (1) of this
17 subsection, the taxable income properly reportable for
18 federal income tax purposes shall mean:

19 (A) Certain life insurance companies. In the case
20 of a life insurance company subject to the tax imposed
21 by Section 801 of the Internal Revenue Code, life
22 insurance company taxable income, plus the amount of
23 distribution from pre-1984 policyholder surplus
24 accounts as calculated under Section 815a of the
25 Internal Revenue Code;

26 (B) Certain other insurance companies. In the case

1 of mutual insurance companies subject to the tax
2 imposed by Section 831 of the Internal Revenue Code,
3 insurance company taxable income;

4 (C) Regulated investment companies. In the case of
5 a regulated investment company subject to the tax
6 imposed by Section 852 of the Internal Revenue Code,
7 investment company taxable income;

8 (D) Real estate investment trusts. In the case of a
9 real estate investment trust subject to the tax imposed
10 by Section 857 of the Internal Revenue Code, real
11 estate investment trust taxable income;

12 (E) Consolidated corporations. In the case of a
13 corporation which is a member of an affiliated group of
14 corporations filing a consolidated income tax return
15 for the taxable year for federal income tax purposes,
16 taxable income determined as if such corporation had
17 filed a separate return for federal income tax purposes
18 for the taxable year and each preceding taxable year
19 for which it was a member of an affiliated group. For
20 purposes of this subparagraph, the taxpayer's separate
21 taxable income shall be determined as if the election
22 provided by Section 243(b) (2) of the Internal Revenue
23 Code had been in effect for all such years;

24 (F) Cooperatives. In the case of a cooperative
25 corporation or association, the taxable income of such
26 organization determined in accordance with the

1 provisions of Section 1381 through 1388 of the Internal
2 Revenue Code;

3 (G) Subchapter S corporations. In the case of: (i)
4 a Subchapter S corporation for which there is in effect
5 an election for the taxable year under Section 1362 of
6 the Internal Revenue Code, the taxable income of such
7 corporation determined in accordance with Section
8 1363(b) of the Internal Revenue Code, except that
9 taxable income shall take into account those items
10 which are required by Section 1363(b)(1) of the
11 Internal Revenue Code to be separately stated; and (ii)
12 a Subchapter S corporation for which there is in effect
13 a federal election to opt out of the provisions of the
14 Subchapter S Revision Act of 1982 and have applied
15 instead the prior federal Subchapter S rules as in
16 effect on July 1, 1982, the taxable income of such
17 corporation determined in accordance with the federal
18 Subchapter S rules as in effect on July 1, 1982; and

19 (H) Partnerships. In the case of a partnership,
20 taxable income determined in accordance with Section
21 703 of the Internal Revenue Code, except that taxable
22 income shall take into account those items which are
23 required by Section 703(a)(1) to be separately stated
24 but which would be taken into account by an individual
25 in calculating his taxable income.

26 (3) Recapture of business expenses on disposition of

1 asset or business. Notwithstanding any other law to the
2 contrary, if in prior years income from an asset or
3 business has been classified as business income and in a
4 later year is demonstrated to be non-business income, then
5 all expenses, without limitation, deducted in such later
6 year and in the 2 immediately preceding taxable years
7 related to that asset or business that generated the
8 non-business income shall be added back and recaptured as
9 business income in the year of the disposition of the asset
10 or business. Such amount shall be apportioned to Illinois
11 using the greater of the apportionment fraction computed
12 for the business under Section 304 of this Act for the
13 taxable year or the average of the apportionment fractions
14 computed for the business under Section 304 of this Act for
15 the taxable year and for the 2 immediately preceding
16 taxable years.

17 (f) Valuation limitation amount.

18 (1) In general. The valuation limitation amount
19 referred to in subsections (a) (2) (G), (c) (2) (I) and
20 (d) (2) (E) is an amount equal to:

21 (A) The sum of the pre-August 1, 1969 appreciation
22 amounts (to the extent consisting of gain reportable
23 under the provisions of Section 1245 or 1250 of the
24 Internal Revenue Code) for all property in respect of
25 which such gain was reported for the taxable year; plus

26 (B) The lesser of (i) the sum of the pre-August 1,

1 1969 appreciation amounts (to the extent consisting of
2 capital gain) for all property in respect of which such
3 gain was reported for federal income tax purposes for
4 the taxable year, or (ii) the net capital gain for the
5 taxable year, reduced in either case by any amount of
6 such gain included in the amount determined under
7 subsection (a) (2) (F) or (c) (2) (H).

8 (2) Pre-August 1, 1969 appreciation amount.

9 (A) If the fair market value of property referred
10 to in paragraph (1) was readily ascertainable on August
11 1, 1969, the pre-August 1, 1969 appreciation amount for
12 such property is the lesser of (i) the excess of such
13 fair market value over the taxpayer's basis (for
14 determining gain) for such property on that date
15 (determined under the Internal Revenue Code as in
16 effect on that date), or (ii) the total gain realized
17 and reportable for federal income tax purposes in
18 respect of the sale, exchange or other disposition of
19 such property.

20 (B) If the fair market value of property referred
21 to in paragraph (1) was not readily ascertainable on
22 August 1, 1969, the pre-August 1, 1969 appreciation
23 amount for such property is that amount which bears the
24 same ratio to the total gain reported in respect of the
25 property for federal income tax purposes for the
26 taxable year, as the number of full calendar months in

1 that part of the taxpayer's holding period for the
2 property ending July 31, 1969 bears to the number of
3 full calendar months in the taxpayer's entire holding
4 period for the property.

5 (C) The Department shall prescribe such
6 regulations as may be necessary to carry out the
7 purposes of this paragraph.

8 (g) Double deductions. Unless specifically provided
9 otherwise, nothing in this Section shall permit the same item
10 to be deducted more than once.

11 (h) Legislative intention. Except as expressly provided by
12 this Section there shall be no modifications or limitations on
13 the amounts of income, gain, loss or deduction taken into
14 account in determining gross income, adjusted gross income or
15 taxable income for federal income tax purposes for the taxable
16 year, or in the amount of such items entering into the
17 computation of base income and net income under this Act for
18 such taxable year, whether in respect of property values as of
19 August 1, 1969 or otherwise.

20 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
21 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
22 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

23 Section 905. The Use Tax Act is amended by changing Section

1 3-5 as follows:

2 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

3 Sec. 3-5. Exemptions. Use of the following tangible
4 personal property is exempt from the tax imposed by this Act:

5 (1) Personal property purchased from a corporation,
6 society, association, foundation, institution, or
7 organization, other than a limited liability company, that is
8 organized and operated as a not-for-profit service enterprise
9 for the benefit of persons 65 years of age or older if the
10 personal property was not purchased by the enterprise for the
11 purpose of resale by the enterprise.

12 (2) Personal property purchased by a not-for-profit
13 Illinois county fair association for use in conducting,
14 operating, or promoting the county fair.

15 (3) Personal property purchased by a not-for-profit arts or
16 cultural organization that establishes, by proof required by
17 the Department by rule, that it has received an exemption under
18 Section 501(c)(3) of the Internal Revenue Code and that is
19 organized and operated primarily for the presentation or
20 support of arts or cultural programming, activities, or
21 services. These organizations include, but are not limited to,
22 music and dramatic arts organizations such as symphony
23 orchestras and theatrical groups, arts and cultural service
24 organizations, local arts councils, visual arts organizations,
25 and media arts organizations. On and after the effective date

1 of this amendatory Act of the 92nd General Assembly, however,
2 an entity otherwise eligible for this exemption shall not make
3 tax-free purchases unless it has an active identification
4 number issued by the Department.

5 (4) Personal property purchased by a governmental body, by
6 a corporation, society, association, foundation, or
7 institution organized and operated exclusively for charitable,
8 religious, or educational purposes, or by a not-for-profit
9 corporation, society, association, foundation, institution, or
10 organization that has no compensated officers or employees and
11 that is organized and operated primarily for the recreation of
12 persons 55 years of age or older. A limited liability company
13 may qualify for the exemption under this paragraph only if the
14 limited liability company is organized and operated
15 exclusively for educational purposes. On and after July 1,
16 1987, however, no entity otherwise eligible for this exemption
17 shall make tax-free purchases unless it has an active exemption
18 identification number issued by the Department.

19 (5) Until July 1, 2003, a passenger car that is a
20 replacement vehicle to the extent that the purchase price of
21 the car is subject to the Replacement Vehicle Tax.

22 (6) Until July 1, 2003 and beginning again on September 1,
23 2004, graphic arts machinery and equipment, including repair
24 and replacement parts, both new and used, and including that
25 manufactured on special order, certified by the purchaser to be
26 used primarily for graphic arts production, and including

1 machinery and equipment purchased for lease. Equipment
2 includes chemicals or chemicals acting as catalysts but only if
3 the chemicals or chemicals acting as catalysts effect a direct
4 and immediate change upon a graphic arts product.

5 (7) Farm chemicals.

6 (8) Legal tender, currency, medallions, or gold or silver
7 coinage issued by the State of Illinois, the government of the
8 United States of America, or the government of any foreign
9 country, and bullion.

10 (9) Personal property purchased from a teacher-sponsored
11 student organization affiliated with an elementary or
12 secondary school located in Illinois.

13 (10) A motor vehicle of the first division, a motor vehicle
14 of the second division that is a self-contained motor vehicle
15 designed or permanently converted to provide living quarters
16 for recreational, camping, or travel use, with direct walk
17 through to the living quarters from the driver's seat, or a
18 motor vehicle of the second division that is of the van
19 configuration designed for the transportation of not less than
20 7 nor more than 16 passengers, as defined in Section 1-146 of
21 the Illinois Vehicle Code, that is used for automobile renting,
22 as defined in the Automobile Renting Occupation and Use Tax
23 Act.

24 (11) Farm machinery and equipment, both new and used,
25 including that manufactured on special order, certified by the
26 purchaser to be used primarily for production agriculture or

1 State or federal agricultural programs, including individual
2 replacement parts for the machinery and equipment, including
3 machinery and equipment purchased for lease, and including
4 implements of husbandry defined in Section 1-130 of the
5 Illinois Vehicle Code, farm machinery and agricultural
6 chemical and fertilizer spreaders, and nurse wagons required to
7 be registered under Section 3-809 of the Illinois Vehicle Code,
8 but excluding other motor vehicles required to be registered
9 under the Illinois Vehicle Code. Horticultural polyhouses or
10 hoop houses used for propagating, growing, or overwintering
11 plants shall be considered farm machinery and equipment under
12 this item (11). Agricultural chemical tender tanks and dry
13 boxes shall include units sold separately from a motor vehicle
14 required to be licensed and units sold mounted on a motor
15 vehicle required to be licensed if the selling price of the
16 tender is separately stated.

17 Farm machinery and equipment shall include precision
18 farming equipment that is installed or purchased to be
19 installed on farm machinery and equipment including, but not
20 limited to, tractors, harvesters, sprayers, planters, seeders,
21 or spreaders. Precision farming equipment includes, but is not
22 limited to, soil testing sensors, computers, monitors,
23 software, global positioning and mapping systems, and other
24 such equipment.

25 Farm machinery and equipment also includes computers,
26 sensors, software, and related equipment used primarily in the

1 computer-assisted operation of production agriculture
2 facilities, equipment, and activities such as, but not limited
3 to, the collection, monitoring, and correlation of animal and
4 crop data for the purpose of formulating animal diets and
5 agricultural chemicals. This item (11) is exempt from the
6 provisions of Section 3-90.

7 (12) Fuel and petroleum products sold to or used by an air
8 common carrier, certified by the carrier to be used for
9 consumption, shipment, or storage in the conduct of its
10 business as an air common carrier, for a flight destined for or
11 returning from a location or locations outside the United
12 States without regard to previous or subsequent domestic
13 stopovers.

14 (13) Proceeds of mandatory service charges separately
15 stated on customers' bills for the purchase and consumption of
16 food and beverages purchased at retail from a retailer, to the
17 extent that the proceeds of the service charge are in fact
18 turned over as tips or as a substitute for tips to the
19 employees who participate directly in preparing, serving,
20 hosting or cleaning up the food or beverage function with
21 respect to which the service charge is imposed.

22 (14) Until July 1, 2003, oil field exploration, drilling,
23 and production equipment, including (i) rigs and parts of rigs,
24 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
25 tubular goods, including casing and drill strings, (iii) pumps
26 and pump-jack units, (iv) storage tanks and flow lines, (v) any

1 individual replacement part for oil field exploration,
2 drilling, and production equipment, and (vi) machinery and
3 equipment purchased for lease; but excluding motor vehicles
4 required to be registered under the Illinois Vehicle Code.

5 (15) Photoprocessing machinery and equipment, including
6 repair and replacement parts, both new and used, including that
7 manufactured on special order, certified by the purchaser to be
8 used primarily for photoprocessing, and including
9 photoprocessing machinery and equipment purchased for lease.

10 (16) Until July 1, 2003, coal exploration, mining,
11 offhighway hauling, processing, maintenance, and reclamation
12 equipment, including replacement parts and equipment, and
13 including equipment purchased for lease, but excluding motor
14 vehicles required to be registered under the Illinois Vehicle
15 Code.

16 (17) Until July 1, 2003, distillation machinery and
17 equipment, sold as a unit or kit, assembled or installed by the
18 retailer, certified by the user to be used only for the
19 production of ethyl alcohol that will be used for consumption
20 as motor fuel or as a component of motor fuel for the personal
21 use of the user, and not subject to sale or resale.

22 (18) Manufacturing and assembling machinery and equipment
23 used primarily in the process of manufacturing or assembling
24 tangible personal property for wholesale or retail sale or
25 lease, whether that sale or lease is made directly by the
26 manufacturer or by some other person, whether the materials

1 used in the process are owned by the manufacturer or some other
2 person, or whether that sale or lease is made apart from or as
3 an incident to the seller's engaging in the service occupation
4 of producing machines, tools, dies, jigs, patterns, gauges, or
5 other similar items of no commercial value on special order for
6 a particular purchaser.

7 (19) Personal property delivered to a purchaser or
8 purchaser's donee inside Illinois when the purchase order for
9 that personal property was received by a florist located
10 outside Illinois who has a florist located inside Illinois
11 deliver the personal property.

12 (20) Semen used for artificial insemination of livestock
13 for direct agricultural production.

14 (21) Horses, or interests in horses, registered with and
15 meeting the requirements of any of the Arabian Horse Club
16 Registry of America, Appaloosa Horse Club, American Quarter
17 Horse Association, United States Trotting Association, or
18 Jockey Club, as appropriate, used for purposes of breeding or
19 racing for prizes.

20 (22) Computers and communications equipment utilized for
21 any hospital purpose and equipment used in the diagnosis,
22 analysis, or treatment of hospital patients purchased by a
23 lessor who leases the equipment, under a lease of one year or
24 longer executed or in effect at the time the lessor would
25 otherwise be subject to the tax imposed by this Act, to a
26 hospital that has been issued an active tax exemption

1 identification number by the Department under Section 1g of the
2 Retailers' Occupation Tax Act. If the equipment is leased in a
3 manner that does not qualify for this exemption or is used in
4 any other non-exempt manner, the lessor shall be liable for the
5 tax imposed under this Act or the Service Use Tax Act, as the
6 case may be, based on the fair market value of the property at
7 the time the non-qualifying use occurs. No lessor shall collect
8 or attempt to collect an amount (however designated) that
9 purports to reimburse that lessor for the tax imposed by this
10 Act or the Service Use Tax Act, as the case may be, if the tax
11 has not been paid by the lessor. If a lessor improperly
12 collects any such amount from the lessee, the lessee shall have
13 a legal right to claim a refund of that amount from the lessor.
14 If, however, that amount is not refunded to the lessee for any
15 reason, the lessor is liable to pay that amount to the
16 Department.

17 (23) Personal property purchased by a lessor who leases the
18 property, under a lease of one year or longer executed or in
19 effect at the time the lessor would otherwise be subject to the
20 tax imposed by this Act, to a governmental body that has been
21 issued an active sales tax exemption identification number by
22 the Department under Section 1g of the Retailers' Occupation
23 Tax Act. If the property is leased in a manner that does not
24 qualify for this exemption or used in any other non-exempt
25 manner, the lessor shall be liable for the tax imposed under
26 this Act or the Service Use Tax Act, as the case may be, based

1 on the fair market value of the property at the time the
2 non-qualifying use occurs. No lessor shall collect or attempt
3 to collect an amount (however designated) that purports to
4 reimburse that lessor for the tax imposed by this Act or the
5 Service Use Tax Act, as the case may be, if the tax has not been
6 paid by the lessor. If a lessor improperly collects any such
7 amount from the lessee, the lessee shall have a legal right to
8 claim a refund of that amount from the lessor. If, however,
9 that amount is not refunded to the lessee for any reason, the
10 lessor is liable to pay that amount to the Department.

11 (24) Beginning with taxable years ending on or after
12 December 31, 1995 and ending with taxable years ending on or
13 before December 31, 2004, personal property that is donated for
14 disaster relief to be used in a State or federally declared
15 disaster area in Illinois or bordering Illinois by a
16 manufacturer or retailer that is registered in this State to a
17 corporation, society, association, foundation, or institution
18 that has been issued a sales tax exemption identification
19 number by the Department that assists victims of the disaster
20 who reside within the declared disaster area.

21 (25) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is used in the
24 performance of infrastructure repairs in this State, including
25 but not limited to municipal roads and streets, access roads,
26 bridges, sidewalks, waste disposal systems, water and sewer

1 line extensions, water distribution and purification
2 facilities, storm water drainage and retention facilities, and
3 sewage treatment facilities, resulting from a State or
4 federally declared disaster in Illinois or bordering Illinois
5 when such repairs are initiated on facilities located in the
6 declared disaster area within 6 months after the disaster.

7 (26) Beginning July 1, 1999, game or game birds purchased
8 at a "game breeding and hunting preserve area" or an "exotic
9 game hunting area" as those terms are used in the Wildlife Code
10 or at a hunting enclosure approved through rules adopted by the
11 Department of Natural Resources. This paragraph is exempt from
12 the provisions of Section 3-90.

13 (27) A motor vehicle, as that term is defined in Section
14 1-146 of the Illinois Vehicle Code, that is donated to a
15 corporation, limited liability company, society, association,
16 foundation, or institution that is determined by the Department
17 to be organized and operated exclusively for educational
18 purposes. For purposes of this exemption, "a corporation,
19 limited liability company, society, association, foundation,
20 or institution organized and operated exclusively for
21 educational purposes" means all tax-supported public schools,
22 private schools that offer systematic instruction in useful
23 branches of learning by methods common to public schools and
24 that compare favorably in their scope and intensity with the
25 course of study presented in tax-supported schools, and
26 vocational or technical schools or institutes organized and

1 operated exclusively to provide a course of study of not less
2 than 6 weeks duration and designed to prepare individuals to
3 follow a trade or to pursue a manual, technical, mechanical,
4 industrial, business, or commercial occupation.

5 (28) Beginning January 1, 2000, personal property,
6 including food, purchased through fundraising events for the
7 benefit of a public or private elementary or secondary school,
8 a group of those schools, or one or more school districts if
9 the events are sponsored by an entity recognized by the school
10 district that consists primarily of volunteers and includes
11 parents and teachers of the school children. This paragraph
12 does not apply to fundraising events (i) for the benefit of
13 private home instruction or (ii) for which the fundraising
14 entity purchases the personal property sold at the events from
15 another individual or entity that sold the property for the
16 purpose of resale by the fundraising entity and that profits
17 from the sale to the fundraising entity. This paragraph is
18 exempt from the provisions of Section 3-90.

19 (29) Beginning January 1, 2000 and through December 31,
20 2001, new or used automatic vending machines that prepare and
21 serve hot food and beverages, including coffee, soup, and other
22 items, and replacement parts for these machines. Beginning
23 January 1, 2002 and through June 30, 2003, machines and parts
24 for machines used in commercial, coin-operated amusement and
25 vending business if a use or occupation tax is paid on the
26 gross receipts derived from the use of the commercial,

1 coin-operated amusement and vending machines. This paragraph
2 is exempt from the provisions of Section 3-90.

3 (30) Beginning January 1, 2001 and through June 30, 2011,
4 food for human consumption that is to be consumed off the
5 premises where it is sold (other than alcoholic beverages, soft
6 drinks, and food that has been prepared for immediate
7 consumption) and prescription and nonprescription medicines,
8 drugs, medical appliances, and insulin, urine testing
9 materials, syringes, and needles used by diabetics, for human
10 use, when purchased for use by a person receiving medical
11 assistance under Article 5 of the Illinois Public Aid Code who
12 resides in a licensed long-term care facility, as defined in
13 the Nursing Home Care Act.

14 (31) Beginning on the effective date of this amendatory Act
15 of the 92nd General Assembly, computers and communications
16 equipment utilized for any hospital purpose and equipment used
17 in the diagnosis, analysis, or treatment of hospital patients
18 purchased by a lessor who leases the equipment, under a lease
19 of one year or longer executed or in effect at the time the
20 lessor would otherwise be subject to the tax imposed by this
21 Act, to a hospital that has been issued an active tax exemption
22 identification number by the Department under Section 1g of the
23 Retailers' Occupation Tax Act. If the equipment is leased in a
24 manner that does not qualify for this exemption or is used in
25 any other nonexempt manner, the lessor shall be liable for the
26 tax imposed under this Act or the Service Use Tax Act, as the

1 case may be, based on the fair market value of the property at
2 the time the nonqualifying use occurs. No lessor shall collect
3 or attempt to collect an amount (however designated) that
4 purports to reimburse that lessor for the tax imposed by this
5 Act or the Service Use Tax Act, as the case may be, if the tax
6 has not been paid by the lessor. If a lessor improperly
7 collects any such amount from the lessee, the lessee shall have
8 a legal right to claim a refund of that amount from the lessor.
9 If, however, that amount is not refunded to the lessee for any
10 reason, the lessor is liable to pay that amount to the
11 Department. This paragraph is exempt from the provisions of
12 Section 3-90.

13 (32) Beginning on the effective date of this amendatory Act
14 of the 92nd General Assembly, personal property purchased by a
15 lessor who leases the property, under a lease of one year or
16 longer executed or in effect at the time the lessor would
17 otherwise be subject to the tax imposed by this Act, to a
18 governmental body that has been issued an active sales tax
19 exemption identification number by the Department under
20 Section 1g of the Retailers' Occupation Tax Act. If the
21 property is leased in a manner that does not qualify for this
22 exemption or used in any other nonexempt manner, the lessor
23 shall be liable for the tax imposed under this Act or the
24 Service Use Tax Act, as the case may be, based on the fair
25 market value of the property at the time the nonqualifying use
26 occurs. No lessor shall collect or attempt to collect an amount

1 (however designated) that purports to reimburse that lessor for
2 the tax imposed by this Act or the Service Use Tax Act, as the
3 case may be, if the tax has not been paid by the lessor. If a
4 lessor improperly collects any such amount from the lessee, the
5 lessee shall have a legal right to claim a refund of that
6 amount from the lessor. If, however, that amount is not
7 refunded to the lessee for any reason, the lessor is liable to
8 pay that amount to the Department. This paragraph is exempt
9 from the provisions of Section 3-90.

10 (33) On and after July 1, 2003 and through June 30, 2004,
11 the use in this State of motor vehicles of the second division
12 with a gross vehicle weight in excess of 8,000 pounds and that
13 are subject to the commercial distribution fee imposed under
14 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
15 1, 2004 and through June 30, 2005, the use in this State of
16 motor vehicles of the second division: (i) with a gross vehicle
17 weight rating in excess of 8,000 pounds; (ii) that are subject
18 to the commercial distribution fee imposed under Section
19 3-815.1 of the Illinois Vehicle Code; and (iii) that are
20 primarily used for commercial purposes. Through June 30, 2005,
21 this exemption applies to repair and replacement parts added
22 after the initial purchase of such a motor vehicle if that
23 motor vehicle is used in a manner that would qualify for the
24 rolling stock exemption otherwise provided for in this Act. For
25 purposes of this paragraph, the term "used for commercial
26 purposes" means the transportation of persons or property in

1 furtherance of any commercial or industrial enterprise,
2 whether for-hire or not.

3 (34) Any work of art that is sold from a place of business
4 within an Illinois Arts District by a person who has been
5 granted an exemption under Section 15 of the Arts District Act.

6 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
7 eff. 7-30-04; 93-1033, eff. 9-3-04; 94-1002, eff. 7-3-06.)

8 Section 910. The Service Use Tax Act is amended by changing
9 Section 3-5 as follows:

10 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

11 Sec. 3-5. Exemptions. Use of the following tangible
12 personal property is exempt from the tax imposed by this Act:

13 (1) Personal property purchased from a corporation,
14 society, association, foundation, institution, or
15 organization, other than a limited liability company, that is
16 organized and operated as a not-for-profit service enterprise
17 for the benefit of persons 65 years of age or older if the
18 personal property was not purchased by the enterprise for the
19 purpose of resale by the enterprise.

20 (2) Personal property purchased by a non-profit Illinois
21 county fair association for use in conducting, operating, or
22 promoting the county fair.

23 (3) Personal property purchased by a not-for-profit arts or
24 cultural organization that establishes, by proof required by

1 the Department by rule, that it has received an exemption under
2 Section 501(c)(3) of the Internal Revenue Code and that is
3 organized and operated primarily for the presentation or
4 support of arts or cultural programming, activities, or
5 services. These organizations include, but are not limited to,
6 music and dramatic arts organizations such as symphony
7 orchestras and theatrical groups, arts and cultural service
8 organizations, local arts councils, visual arts organizations,
9 and media arts organizations. On and after the effective date
10 of this amendatory Act of the 92nd General Assembly, however,
11 an entity otherwise eligible for this exemption shall not make
12 tax-free purchases unless it has an active identification
13 number issued by the Department.

14 (4) Legal tender, currency, medallions, or gold or silver
15 coinage issued by the State of Illinois, the government of the
16 United States of America, or the government of any foreign
17 country, and bullion.

18 (5) Until July 1, 2003 and beginning again on September 1,
19 2004, graphic arts machinery and equipment, including repair
20 and replacement parts, both new and used, and including that
21 manufactured on special order or purchased for lease, certified
22 by the purchaser to be used primarily for graphic arts
23 production. Equipment includes chemicals or chemicals acting
24 as catalysts but only if the chemicals or chemicals acting as
25 catalysts effect a direct and immediate change upon a graphic
26 arts product.

1 (6) Personal property purchased from a teacher-sponsored
2 student organization affiliated with an elementary or
3 secondary school located in Illinois.

4 (7) Farm machinery and equipment, both new and used,
5 including that manufactured on special order, certified by the
6 purchaser to be used primarily for production agriculture or
7 State or federal agricultural programs, including individual
8 replacement parts for the machinery and equipment, including
9 machinery and equipment purchased for lease, and including
10 implements of husbandry defined in Section 1-130 of the
11 Illinois Vehicle Code, farm machinery and agricultural
12 chemical and fertilizer spreaders, and nurse wagons required to
13 be registered under Section 3-809 of the Illinois Vehicle Code,
14 but excluding other motor vehicles required to be registered
15 under the Illinois Vehicle Code. Horticultural polyhouses or
16 hoop houses used for propagating, growing, or overwintering
17 plants shall be considered farm machinery and equipment under
18 this item (7). Agricultural chemical tender tanks and dry boxes
19 shall include units sold separately from a motor vehicle
20 required to be licensed and units sold mounted on a motor
21 vehicle required to be licensed if the selling price of the
22 tender is separately stated.

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

5 Farm machinery and equipment also includes computers,
6 sensors, software, and related equipment used primarily in the
7 computer-assisted operation of production agriculture
8 facilities, equipment, and activities such as, but not limited
9 to, the collection, monitoring, and correlation of animal and
10 crop data for the purpose of formulating animal diets and
11 agricultural chemicals. This item (7) is exempt from the
12 provisions of Section 3-75.

13 (8) Fuel and petroleum products sold to or used by an air
14 common carrier, certified by the carrier to be used for
15 consumption, shipment, or storage in the conduct of its
16 business as an air common carrier, for a flight destined for or
17 returning from a location or locations outside the United
18 States without regard to previous or subsequent domestic
19 stopovers.

20 (9) Proceeds of mandatory service charges separately
21 stated on customers' bills for the purchase and consumption of
22 food and beverages acquired as an incident to the purchase of a
23 service from a serviceman, to the extent that the proceeds of
24 the service charge are in fact turned over as tips or as a
25 substitute for tips to the employees who participate directly
26 in preparing, serving, hosting or cleaning up the food or

1 beverage function with respect to which the service charge is
2 imposed.

3 (10) Until July 1, 2003, oil field exploration, drilling,
4 and production equipment, including (i) rigs and parts of rigs,
5 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
6 tubular goods, including casing and drill strings, (iii) pumps
7 and pump-jack units, (iv) storage tanks and flow lines, (v) any
8 individual replacement part for oil field exploration,
9 drilling, and production equipment, and (vi) machinery and
10 equipment purchased for lease; but excluding motor vehicles
11 required to be registered under the Illinois Vehicle Code.

12 (11) Proceeds from the sale of photoprocessing machinery
13 and equipment, including repair and replacement parts, both new
14 and used, including that manufactured on special order,
15 certified by the purchaser to be used primarily for
16 photoprocessing, and including photoprocessing machinery and
17 equipment purchased for lease.

18 (12) Until July 1, 2003, coal exploration, mining,
19 offhighway hauling, processing, maintenance, and reclamation
20 equipment, including replacement parts and equipment, and
21 including equipment purchased for lease, but excluding motor
22 vehicles required to be registered under the Illinois Vehicle
23 Code.

24 (13) Semen used for artificial insemination of livestock
25 for direct agricultural production.

26 (14) Horses, or interests in horses, registered with and

1 meeting the requirements of any of the Arabian Horse Club
2 Registry of America, Appaloosa Horse Club, American Quarter
3 Horse Association, United States Trotting Association, or
4 Jockey Club, as appropriate, used for purposes of breeding or
5 racing for prizes.

6 (15) Computers and communications equipment utilized for
7 any hospital purpose and equipment used in the diagnosis,
8 analysis, or treatment of hospital patients purchased by a
9 lessor who leases the equipment, under a lease of one year or
10 longer executed or in effect at the time the lessor would
11 otherwise be subject to the tax imposed by this Act, to a
12 hospital that has been issued an active tax exemption
13 identification number by the Department under Section 1g of the
14 Retailers' Occupation Tax Act. If the equipment is leased in a
15 manner that does not qualify for this exemption or is used in
16 any other non-exempt manner, the lessor shall be liable for the
17 tax imposed under this Act or the Use Tax Act, as the case may
18 be, based on the fair market value of the property at the time
19 the non-qualifying use occurs. No lessor shall collect or
20 attempt to collect an amount (however designated) that purports
21 to reimburse that lessor for the tax imposed by this Act or the
22 Use Tax Act, as the case may be, if the tax has not been paid by
23 the lessor. If a lessor improperly collects any such amount
24 from the lessee, the lessee shall have a legal right to claim a
25 refund of that amount from the lessor. If, however, that amount
26 is not refunded to the lessee for any reason, the lessor is

1 liable to pay that amount to the Department.

2 (16) Personal property purchased by a lessor who leases the
3 property, under a lease of one year or longer executed or in
4 effect at the time the lessor would otherwise be subject to the
5 tax imposed by this Act, to a governmental body that has been
6 issued an active tax exemption identification number by the
7 Department under Section 1g of the Retailers' Occupation Tax
8 Act. If the property is leased in a manner that does not
9 qualify for this exemption or is used in any other non-exempt
10 manner, the lessor shall be liable for the tax imposed under
11 this Act or the Use Tax Act, as the case may be, based on the
12 fair market value of the property at the time the
13 non-qualifying use occurs. No lessor shall collect or attempt
14 to collect an amount (however designated) that purports to
15 reimburse that lessor for the tax imposed by this Act or the
16 Use Tax Act, as the case may be, if the tax has not been paid by
17 the lessor. If a lessor improperly collects any such amount
18 from the lessee, the lessee shall have a legal right to claim a
19 refund of that amount from the lessor. If, however, that amount
20 is not refunded to the lessee for any reason, the lessor is
21 liable to pay that amount to the Department.

22 (17) Beginning with taxable years ending on or after
23 December 31, 1995 and ending with taxable years ending on or
24 before December 31, 2004, personal property that is donated for
25 disaster relief to be used in a State or federally declared
26 disaster area in Illinois or bordering Illinois by a

1 manufacturer or retailer that is registered in this State to a
2 corporation, society, association, foundation, or institution
3 that has been issued a sales tax exemption identification
4 number by the Department that assists victims of the disaster
5 who reside within the declared disaster area.

6 (18) Beginning with taxable years ending on or after
7 December 31, 1995 and ending with taxable years ending on or
8 before December 31, 2004, personal property that is used in the
9 performance of infrastructure repairs in this State, including
10 but not limited to municipal roads and streets, access roads,
11 bridges, sidewalks, waste disposal systems, water and sewer
12 line extensions, water distribution and purification
13 facilities, storm water drainage and retention facilities, and
14 sewage treatment facilities, resulting from a State or
15 federally declared disaster in Illinois or bordering Illinois
16 when such repairs are initiated on facilities located in the
17 declared disaster area within 6 months after the disaster.

18 (19) Beginning July 1, 1999, game or game birds purchased
19 at a "game breeding and hunting preserve area" or an "exotic
20 game hunting area" as those terms are used in the Wildlife Code
21 or at a hunting enclosure approved through rules adopted by the
22 Department of Natural Resources. This paragraph is exempt from
23 the provisions of Section 3-75.

24 (20) A motor vehicle, as that term is defined in Section
25 1-146 of the Illinois Vehicle Code, that is donated to a
26 corporation, limited liability company, society, association,

1 foundation, or institution that is determined by the Department
2 to be organized and operated exclusively for educational
3 purposes. For purposes of this exemption, "a corporation,
4 limited liability company, society, association, foundation,
5 or institution organized and operated exclusively for
6 educational purposes" means all tax-supported public schools,
7 private schools that offer systematic instruction in useful
8 branches of learning by methods common to public schools and
9 that compare favorably in their scope and intensity with the
10 course of study presented in tax-supported schools, and
11 vocational or technical schools or institutes organized and
12 operated exclusively to provide a course of study of not less
13 than 6 weeks duration and designed to prepare individuals to
14 follow a trade or to pursue a manual, technical, mechanical,
15 industrial, business, or commercial occupation.

16 (21) Beginning January 1, 2000, personal property,
17 including food, purchased through fundraising events for the
18 benefit of a public or private elementary or secondary school,
19 a group of those schools, or one or more school districts if
20 the events are sponsored by an entity recognized by the school
21 district that consists primarily of volunteers and includes
22 parents and teachers of the school children. This paragraph
23 does not apply to fundraising events (i) for the benefit of
24 private home instruction or (ii) for which the fundraising
25 entity purchases the personal property sold at the events from
26 another individual or entity that sold the property for the

1 purpose of resale by the fundraising entity and that profits
2 from the sale to the fundraising entity. This paragraph is
3 exempt from the provisions of Section 3-75.

4 (22) Beginning January 1, 2000 and through December 31,
5 2001, new or used automatic vending machines that prepare and
6 serve hot food and beverages, including coffee, soup, and other
7 items, and replacement parts for these machines. Beginning
8 January 1, 2002 and through June 30, 2003, machines and parts
9 for machines used in commercial, coin-operated amusement and
10 vending business if a use or occupation tax is paid on the
11 gross receipts derived from the use of the commercial,
12 coin-operated amusement and vending machines. This paragraph
13 is exempt from the provisions of Section 3-75.

14 (23) Beginning August 23, 2001 and through June 30, 2011,
15 food for human consumption that is to be consumed off the
16 premises where it is sold (other than alcoholic beverages, soft
17 drinks, and food that has been prepared for immediate
18 consumption) and prescription and nonprescription medicines,
19 drugs, medical appliances, and insulin, urine testing
20 materials, syringes, and needles used by diabetics, for human
21 use, when purchased for use by a person receiving medical
22 assistance under Article 5 of the Illinois Public Aid Code who
23 resides in a licensed long-term care facility, as defined in
24 the Nursing Home Care Act.

25 (24) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, computers and communications

1 equipment utilized for any hospital purpose and equipment used
2 in the diagnosis, analysis, or treatment of hospital patients
3 purchased by a lessor who leases the equipment, under a lease
4 of one year or longer executed or in effect at the time the
5 lessor would otherwise be subject to the tax imposed by this
6 Act, to a hospital that has been issued an active tax exemption
7 identification number by the Department under Section 1g of the
8 Retailers' Occupation Tax Act. If the equipment is leased in a
9 manner that does not qualify for this exemption or is used in
10 any other nonexempt manner, the lessor shall be liable for the
11 tax imposed under this Act or the Use Tax Act, as the case may
12 be, based on the fair market value of the property at the time
13 the nonqualifying use occurs. No lessor shall collect or
14 attempt to collect an amount (however designated) that purports
15 to reimburse that lessor for the tax imposed by this Act or the
16 Use Tax Act, as the case may be, if the tax has not been paid by
17 the lessor. If a lessor improperly collects any such amount
18 from the lessee, the lessee shall have a legal right to claim a
19 refund of that amount from the lessor. If, however, that amount
20 is not refunded to the lessee for any reason, the lessor is
21 liable to pay that amount to the Department. This paragraph is
22 exempt from the provisions of Section 3-75.

23 (25) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, personal property purchased by a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time the lessor would

1 otherwise be subject to the tax imposed by this Act, to a
2 governmental body that has been issued an active tax exemption
3 identification number by the Department under Section 1g of the
4 Retailers' Occupation Tax Act. If the property is leased in a
5 manner that does not qualify for this exemption or is used in
6 any other nonexempt manner, the lessor shall be liable for the
7 tax imposed under this Act or the Use Tax Act, as the case may
8 be, based on the fair market value of the property at the time
9 the nonqualifying use occurs. No lessor shall collect or
10 attempt to collect an amount (however designated) that purports
11 to reimburse that lessor for the tax imposed by this Act or the
12 Use Tax Act, as the case may be, if the tax has not been paid by
13 the lessor. If a lessor improperly collects any such amount
14 from the lessee, the lessee shall have a legal right to claim a
15 refund of that amount from the lessor. If, however, that amount
16 is not refunded to the lessee for any reason, the lessor is
17 liable to pay that amount to the Department. This paragraph is
18 exempt from the provisions of Section 3-75.

19 (26) Any work of art that is sold from a place of business
20 within an Illinois Arts District by a person who has been
21 granted an exemption under Section 15 of the Arts District Act.

22 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
23 94-1002, eff. 7-3-06.)

24 Section 915. The Service Occupation Tax Act is amended by
25 changing Section 3-5 as follows:

1 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

2 Sec. 3-5. Exemptions. The following tangible personal
3 property is exempt from the tax imposed by this Act:

4 (1) Personal property sold by a corporation, society,
5 association, foundation, institution, or organization, other
6 than a limited liability company, that is organized and
7 operated as a not-for-profit service enterprise for the benefit
8 of persons 65 years of age or older if the personal property
9 was not purchased by the enterprise for the purpose of resale
10 by the enterprise.

11 (2) Personal property purchased by a not-for-profit
12 Illinois county fair association for use in conducting,
13 operating, or promoting the county fair.

14 (3) Personal property purchased by any not-for-profit arts
15 or cultural organization that establishes, by proof required by
16 the Department by rule, that it has received an exemption under
17 Section 501(c)(3) of the Internal Revenue Code and that is
18 organized and operated primarily for the presentation or
19 support of arts or cultural programming, activities, or
20 services. These organizations include, but are not limited to,
21 music and dramatic arts organizations such as symphony
22 orchestras and theatrical groups, arts and cultural service
23 organizations, local arts councils, visual arts organizations,
24 and media arts organizations. On and after the effective date
25 of this amendatory Act of the 92nd General Assembly, however,

1 an entity otherwise eligible for this exemption shall not make
2 tax-free purchases unless it has an active identification
3 number issued by the Department.

4 (4) Legal tender, currency, medallions, or gold or silver
5 coinage issued by the State of Illinois, the government of the
6 United States of America, or the government of any foreign
7 country, and bullion.

8 (5) Until July 1, 2003 and beginning again on September 1,
9 2004, graphic arts machinery and equipment, including repair
10 and replacement parts, both new and used, and including that
11 manufactured on special order or purchased for lease, certified
12 by the purchaser to be used primarily for graphic arts
13 production. Equipment includes chemicals or chemicals acting
14 as catalysts but only if the chemicals or chemicals acting as
15 catalysts effect a direct and immediate change upon a graphic
16 arts product.

17 (6) Personal property sold by a teacher-sponsored student
18 organization affiliated with an elementary or secondary school
19 located in Illinois.

20 (7) Farm machinery and equipment, both new and used,
21 including that manufactured on special order, certified by the
22 purchaser to be used primarily for production agriculture or
23 State or federal agricultural programs, including individual
24 replacement parts for the machinery and equipment, including
25 machinery and equipment purchased for lease, and including
26 implements of husbandry defined in Section 1-130 of the

1 Illinois Vehicle Code, farm machinery and agricultural
2 chemical and fertilizer spreaders, and nurse wagons required to
3 be registered under Section 3-809 of the Illinois Vehicle Code,
4 but excluding other motor vehicles required to be registered
5 under the Illinois Vehicle Code. Horticultural polyhouses or
6 hoop houses used for propagating, growing, or overwintering
7 plants shall be considered farm machinery and equipment under
8 this item (7). Agricultural chemical tender tanks and dry boxes
9 shall include units sold separately from a motor vehicle
10 required to be licensed and units sold mounted on a motor
11 vehicle required to be licensed if the selling price of the
12 tender is separately stated.

13 Farm machinery and equipment shall include precision
14 farming equipment that is installed or purchased to be
15 installed on farm machinery and equipment including, but not
16 limited to, tractors, harvesters, sprayers, planters, seeders,
17 or spreaders. Precision farming equipment includes, but is not
18 limited to, soil testing sensors, computers, monitors,
19 software, global positioning and mapping systems, and other
20 such equipment.

21 Farm machinery and equipment also includes computers,
22 sensors, software, and related equipment used primarily in the
23 computer-assisted operation of production agriculture
24 facilities, equipment, and activities such as, but not limited
25 to, the collection, monitoring, and correlation of animal and
26 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (7) is exempt from the
2 provisions of Section 3-55.

3 (8) Fuel and petroleum products sold to or used by an air
4 common carrier, certified by the carrier to be used for
5 consumption, shipment, or storage in the conduct of its
6 business as an air common carrier, for a flight destined for or
7 returning from a location or locations outside the United
8 States without regard to previous or subsequent domestic
9 stopovers.

10 (9) Proceeds of mandatory service charges separately
11 stated on customers' bills for the purchase and consumption of
12 food and beverages, to the extent that the proceeds of the
13 service charge are in fact turned over as tips or as a
14 substitute for tips to the employees who participate directly
15 in preparing, serving, hosting or cleaning up the food or
16 beverage function with respect to which the service charge is
17 imposed.

18 (10) Until July 1, 2003, oil field exploration, drilling,
19 and production equipment, including (i) rigs and parts of rigs,
20 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
21 tubular goods, including casing and drill strings, (iii) pumps
22 and pump-jack units, (iv) storage tanks and flow lines, (v) any
23 individual replacement part for oil field exploration,
24 drilling, and production equipment, and (vi) machinery and
25 equipment purchased for lease; but excluding motor vehicles
26 required to be registered under the Illinois Vehicle Code.

1 (11) Photoprocessing machinery and equipment, including
2 repair and replacement parts, both new and used, including that
3 manufactured on special order, certified by the purchaser to be
4 used primarily for photoprocessing, and including
5 photoprocessing machinery and equipment purchased for lease.

6 (12) Until July 1, 2003, coal exploration, mining,
7 offhighway hauling, processing, maintenance, and reclamation
8 equipment, including replacement parts and equipment, and
9 including equipment purchased for lease, but excluding motor
10 vehicles required to be registered under the Illinois Vehicle
11 Code.

12 (13) Beginning January 1, 1992 and through June 30, 2011,
13 food for human consumption that is to be consumed off the
14 premises where it is sold (other than alcoholic beverages, soft
15 drinks and food that has been prepared for immediate
16 consumption) and prescription and non-prescription medicines,
17 drugs, medical appliances, and insulin, urine testing
18 materials, syringes, and needles used by diabetics, for human
19 use, when purchased for use by a person receiving medical
20 assistance under Article 5 of the Illinois Public Aid Code who
21 resides in a licensed long-term care facility, as defined in
22 the Nursing Home Care Act.

23 (14) Semen used for artificial insemination of livestock
24 for direct agricultural production.

25 (15) Horses, or interests in horses, registered with and
26 meeting the requirements of any of the Arabian Horse Club

1 Registry of America, Appaloosa Horse Club, American Quarter
2 Horse Association, United States Trotting Association, or
3 Jockey Club, as appropriate, used for purposes of breeding or
4 racing for prizes.

5 (16) Computers and communications equipment utilized for
6 any hospital purpose and equipment used in the diagnosis,
7 analysis, or treatment of hospital patients sold to a lessor
8 who leases the equipment, under a lease of one year or longer
9 executed or in effect at the time of the purchase, to a
10 hospital that has been issued an active tax exemption
11 identification number by the Department under Section 1g of the
12 Retailers' Occupation Tax Act.

13 (17) Personal property sold to a lessor who leases the
14 property, under a lease of one year or longer executed or in
15 effect at the time of the purchase, to a governmental body that
16 has been issued an active tax exemption identification number
17 by the Department under Section 1g of the Retailers' Occupation
18 Tax Act.

19 (18) Beginning with taxable years ending on or after
20 December 31, 1995 and ending with taxable years ending on or
21 before December 31, 2004, personal property that is donated for
22 disaster relief to be used in a State or federally declared
23 disaster area in Illinois or bordering Illinois by a
24 manufacturer or retailer that is registered in this State to a
25 corporation, society, association, foundation, or institution
26 that has been issued a sales tax exemption identification

1 number by the Department that assists victims of the disaster
2 who reside within the declared disaster area.

3 (19) Beginning with taxable years ending on or after
4 December 31, 1995 and ending with taxable years ending on or
5 before December 31, 2004, personal property that is used in the
6 performance of infrastructure repairs in this State, including
7 but not limited to municipal roads and streets, access roads,
8 bridges, sidewalks, waste disposal systems, water and sewer
9 line extensions, water distribution and purification
10 facilities, storm water drainage and retention facilities, and
11 sewage treatment facilities, resulting from a State or
12 federally declared disaster in Illinois or bordering Illinois
13 when such repairs are initiated on facilities located in the
14 declared disaster area within 6 months after the disaster.

15 (20) Beginning July 1, 1999, game or game birds sold at a
16 "game breeding and hunting preserve area" or an "exotic game
17 hunting area" as those terms are used in the Wildlife Code or
18 at a hunting enclosure approved through rules adopted by the
19 Department of Natural Resources. This paragraph is exempt from
20 the provisions of Section 3-55.

21 (21) A motor vehicle, as that term is defined in Section
22 1-146 of the Illinois Vehicle Code, that is donated to a
23 corporation, limited liability company, society, association,
24 foundation, or institution that is determined by the Department
25 to be organized and operated exclusively for educational
26 purposes. For purposes of this exemption, "a corporation,

1 limited liability company, society, association, foundation,
2 or institution organized and operated exclusively for
3 educational purposes" means all tax-supported public schools,
4 private schools that offer systematic instruction in useful
5 branches of learning by methods common to public schools and
6 that compare favorably in their scope and intensity with the
7 course of study presented in tax-supported schools, and
8 vocational or technical schools or institutes organized and
9 operated exclusively to provide a course of study of not less
10 than 6 weeks duration and designed to prepare individuals to
11 follow a trade or to pursue a manual, technical, mechanical,
12 industrial, business, or commercial occupation.

13 (22) Beginning January 1, 2000, personal property,
14 including food, purchased through fundraising events for the
15 benefit of a public or private elementary or secondary school,
16 a group of those schools, or one or more school districts if
17 the events are sponsored by an entity recognized by the school
18 district that consists primarily of volunteers and includes
19 parents and teachers of the school children. This paragraph
20 does not apply to fundraising events (i) for the benefit of
21 private home instruction or (ii) for which the fundraising
22 entity purchases the personal property sold at the events from
23 another individual or entity that sold the property for the
24 purpose of resale by the fundraising entity and that profits
25 from the sale to the fundraising entity. This paragraph is
26 exempt from the provisions of Section 3-55.

1 (23) Beginning January 1, 2000 and through December 31,
2 2001, new or used automatic vending machines that prepare and
3 serve hot food and beverages, including coffee, soup, and other
4 items, and replacement parts for these machines. Beginning
5 January 1, 2002 and through June 30, 2003, machines and parts
6 for machines used in commercial, coin-operated amusement and
7 vending business if a use or occupation tax is paid on the
8 gross receipts derived from the use of the commercial,
9 coin-operated amusement and vending machines. This paragraph
10 is exempt from the provisions of Section 3-55.

11 (24) Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly, computers and communications
13 equipment utilized for any hospital purpose and equipment used
14 in the diagnosis, analysis, or treatment of hospital patients
15 sold to a lessor who leases the equipment, under a lease of one
16 year or longer executed or in effect at the time of the
17 purchase, to a hospital that has been issued an active tax
18 exemption identification number by the Department under
19 Section 1g of the Retailers' Occupation Tax Act. This paragraph
20 is exempt from the provisions of Section 3-55.

21 (25) Beginning on the effective date of this amendatory Act
22 of the 92nd General Assembly, personal property sold to a
23 lessor who leases the property, under a lease of one year or
24 longer executed or in effect at the time of the purchase, to a
25 governmental body that has been issued an active tax exemption
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act. This paragraph is exempt from
2 the provisions of Section 3-55.

3 (26) Beginning on January 1, 2002 and through June 30,
4 2011, tangible personal property purchased from an Illinois
5 retailer by a taxpayer engaged in centralized purchasing
6 activities in Illinois who will, upon receipt of the property
7 in Illinois, temporarily store the property in Illinois (i) for
8 the purpose of subsequently transporting it outside this State
9 for use or consumption thereafter solely outside this State or
10 (ii) for the purpose of being processed, fabricated, or
11 manufactured into, attached to, or incorporated into other
12 tangible personal property to be transported outside this State
13 and thereafter used or consumed solely outside this State. The
14 Director of Revenue shall, pursuant to rules adopted in
15 accordance with the Illinois Administrative Procedure Act,
16 issue a permit to any taxpayer in good standing with the
17 Department who is eligible for the exemption under this
18 paragraph (26). The permit issued under this paragraph (26)
19 shall authorize the holder, to the extent and in the manner
20 specified in the rules adopted under this Act, to purchase
21 tangible personal property from a retailer exempt from the
22 taxes imposed by this Act. Taxpayers shall maintain all
23 necessary books and records to substantiate the use and
24 consumption of all such tangible personal property outside of
25 the State of Illinois.

26 (27) Any work of art that is sold from a place of business

1 within an Illinois Arts District by a person who has been
2 granted an exemption under Section 15 of the Arts District Act.

3 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
4 94-1002, eff. 7-3-06.)

5 Section 920. The Retailers' Occupation Tax Act is amended
6 by changing Section 2-5 as follows:

7 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

8 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
9 sale of the following tangible personal property are exempt
10 from the tax imposed by this Act:

11 (1) Farm chemicals.

12 (2) Farm machinery and equipment, both new and used,
13 including that manufactured on special order, certified by the
14 purchaser to be used primarily for production agriculture or
15 State or federal agricultural programs, including individual
16 replacement parts for the machinery and equipment, including
17 machinery and equipment purchased for lease, and including
18 implements of husbandry defined in Section 1-130 of the
19 Illinois Vehicle Code, farm machinery and agricultural
20 chemical and fertilizer spreaders, and nurse wagons required to
21 be registered under Section 3-809 of the Illinois Vehicle Code,
22 but excluding other motor vehicles required to be registered
23 under the Illinois Vehicle Code. Horticultural polyhouses or
24 hoop houses used for propagating, growing, or overwintering

1 plants shall be considered farm machinery and equipment under
2 this item (2). Agricultural chemical tender tanks and dry boxes
3 shall include units sold separately from a motor vehicle
4 required to be licensed and units sold mounted on a motor
5 vehicle required to be licensed, if the selling price of the
6 tender is separately stated.

7 Farm machinery and equipment shall include precision
8 farming equipment that is installed or purchased to be
9 installed on farm machinery and equipment including, but not
10 limited to, tractors, harvesters, sprayers, planters, seeders,
11 or spreaders. Precision farming equipment includes, but is not
12 limited to, soil testing sensors, computers, monitors,
13 software, global positioning and mapping systems, and other
14 such equipment.

15 Farm machinery and equipment also includes computers,
16 sensors, software, and related equipment used primarily in the
17 computer-assisted operation of production agriculture
18 facilities, equipment, and activities such as, but not limited
19 to, the collection, monitoring, and correlation of animal and
20 crop data for the purpose of formulating animal diets and
21 agricultural chemicals. This item (7) is exempt from the
22 provisions of Section 2-70.

23 (3) Until July 1, 2003, distillation machinery and
24 equipment, sold as a unit or kit, assembled or installed by the
25 retailer, certified by the user to be used only for the
26 production of ethyl alcohol that will be used for consumption

1 as motor fuel or as a component of motor fuel for the personal
2 use of the user, and not subject to sale or resale.

3 (4) Until July 1, 2003 and beginning again September 1,
4 2004, graphic arts machinery and equipment, including repair
5 and replacement parts, both new and used, and including that
6 manufactured on special order or purchased for lease, certified
7 by the purchaser to be used primarily for graphic arts
8 production. Equipment includes chemicals or chemicals acting
9 as catalysts but only if the chemicals or chemicals acting as
10 catalysts effect a direct and immediate change upon a graphic
11 arts product.

12 (5) A motor vehicle of the first division, a motor vehicle
13 of the second division that is a self-contained motor vehicle
14 designed or permanently converted to provide living quarters
15 for recreational, camping, or travel use, with direct walk
16 through access to the living quarters from the driver's seat,
17 or a motor vehicle of the second division that is of the van
18 configuration designed for the transportation of not less than
19 7 nor more than 16 passengers, as defined in Section 1-146 of
20 the Illinois Vehicle Code, that is used for automobile renting,
21 as defined in the Automobile Renting Occupation and Use Tax
22 Act.

23 (6) Personal property sold by a teacher-sponsored student
24 organization affiliated with an elementary or secondary school
25 located in Illinois.

26 (7) Until July 1, 2003, proceeds of that portion of the

1 selling price of a passenger car the sale of which is subject
2 to the Replacement Vehicle Tax.

3 (8) Personal property sold to an Illinois county fair
4 association for use in conducting, operating, or promoting the
5 county fair.

6 (9) Personal property sold to a not-for-profit arts or
7 cultural organization that establishes, by proof required by
8 the Department by rule, that it has received an exemption under
9 Section 501(c)(3) of the Internal Revenue Code and that is
10 organized and operated primarily for the presentation or
11 support of arts or cultural programming, activities, or
12 services. These organizations include, but are not limited to,
13 music and dramatic arts organizations such as symphony
14 orchestras and theatrical groups, arts and cultural service
15 organizations, local arts councils, visual arts organizations,
16 and media arts organizations. On and after the effective date
17 of this amendatory Act of the 92nd General Assembly, however,
18 an entity otherwise eligible for this exemption shall not make
19 tax-free purchases unless it has an active identification
20 number issued by the Department.

21 (10) Personal property sold by a corporation, society,
22 association, foundation, institution, or organization, other
23 than a limited liability company, that is organized and
24 operated as a not-for-profit service enterprise for the benefit
25 of persons 65 years of age or older if the personal property
26 was not purchased by the enterprise for the purpose of resale

1 by the enterprise.

2 (11) Personal property sold to a governmental body, to a
3 corporation, society, association, foundation, or institution
4 organized and operated exclusively for charitable, religious,
5 or educational purposes, or to a not-for-profit corporation,
6 society, association, foundation, institution, or organization
7 that has no compensated officers or employees and that is
8 organized and operated primarily for the recreation of persons
9 55 years of age or older. A limited liability company may
10 qualify for the exemption under this paragraph only if the
11 limited liability company is organized and operated
12 exclusively for educational purposes. On and after July 1,
13 1987, however, no entity otherwise eligible for this exemption
14 shall make tax-free purchases unless it has an active
15 identification number issued by the Department.

16 (12) Tangible personal property sold to interstate
17 carriers for hire for use as rolling stock moving in interstate
18 commerce or to lessors under leases of one year or longer
19 executed or in effect at the time of purchase by interstate
20 carriers for hire for use as rolling stock moving in interstate
21 commerce and equipment operated by a telecommunications
22 provider, licensed as a common carrier by the Federal
23 Communications Commission, which is permanently installed in
24 or affixed to aircraft moving in interstate commerce.

25 (12-5) On and after July 1, 2003 and through June 30, 2004,
26 motor vehicles of the second division with a gross vehicle

1 weight in excess of 8,000 pounds that are subject to the
2 commercial distribution fee imposed under Section 3-815.1 of
3 the Illinois Vehicle Code. Beginning on July 1, 2004 and
4 through June 30, 2005, the use in this State of motor vehicles
5 of the second division: (i) with a gross vehicle weight rating
6 in excess of 8,000 pounds; (ii) that are subject to the
7 commercial distribution fee imposed under Section 3-815.1 of
8 the Illinois Vehicle Code; and (iii) that are primarily used
9 for commercial purposes. Through June 30, 2005, this exemption
10 applies to repair and replacement parts added after the initial
11 purchase of such a motor vehicle if that motor vehicle is used
12 in a manner that would qualify for the rolling stock exemption
13 otherwise provided for in this Act. For purposes of this
14 paragraph, "used for commercial purposes" means the
15 transportation of persons or property in furtherance of any
16 commercial or industrial enterprise whether for-hire or not.

17 (13) Proceeds from sales to owners, lessors, or shippers of
18 tangible personal property that is utilized by interstate
19 carriers for hire for use as rolling stock moving in interstate
20 commerce and equipment operated by a telecommunications
21 provider, licensed as a common carrier by the Federal
22 Communications Commission, which is permanently installed in
23 or affixed to aircraft moving in interstate commerce.

24 (14) Machinery and equipment that will be used by the
25 purchaser, or a lessee of the purchaser, primarily in the
26 process of manufacturing or assembling tangible personal

1 property for wholesale or retail sale or lease, whether the
2 sale or lease is made directly by the manufacturer or by some
3 other person, whether the materials used in the process are
4 owned by the manufacturer or some other person, or whether the
5 sale or lease is made apart from or as an incident to the
6 seller's engaging in the service occupation of producing
7 machines, tools, dies, jigs, patterns, gauges, or other similar
8 items of no commercial value on special order for a particular
9 purchaser.

10 (15) Proceeds of mandatory service charges separately
11 stated on customers' bills for purchase and consumption of food
12 and beverages, to the extent that the proceeds of the service
13 charge are in fact turned over as tips or as a substitute for
14 tips to the employees who participate directly in preparing,
15 serving, hosting or cleaning up the food or beverage function
16 with respect to which the service charge is imposed.

17 (16) Petroleum products sold to a purchaser if the seller
18 is prohibited by federal law from charging tax to the
19 purchaser.

20 (17) Tangible personal property sold to a common carrier by
21 rail or motor that receives the physical possession of the
22 property in Illinois and that transports the property, or
23 shares with another common carrier in the transportation of the
24 property, out of Illinois on a standard uniform bill of lading
25 showing the seller of the property as the shipper or consignor
26 of the property to a destination outside Illinois, for use

1 outside Illinois.

2 (18) Legal tender, currency, medallions, or gold or silver
3 coinage issued by the State of Illinois, the government of the
4 United States of America, or the government of any foreign
5 country, and bullion.

6 (19) Until July 1 2003, oil field exploration, drilling,
7 and production equipment, including (i) rigs and parts of rigs,
8 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
9 tubular goods, including casing and drill strings, (iii) pumps
10 and pump-jack units, (iv) storage tanks and flow lines, (v) any
11 individual replacement part for oil field exploration,
12 drilling, and production equipment, and (vi) machinery and
13 equipment purchased for lease; but excluding motor vehicles
14 required to be registered under the Illinois Vehicle Code.

15 (20) Photoprocessing machinery and equipment, including
16 repair and replacement parts, both new and used, including that
17 manufactured on special order, certified by the purchaser to be
18 used primarily for photoprocessing, and including
19 photoprocessing machinery and equipment purchased for lease.

20 (21) Until July 1, 2003, coal exploration, mining,
21 offhighway hauling, processing, maintenance, and reclamation
22 equipment, including replacement parts and equipment, and
23 including equipment purchased for lease, but excluding motor
24 vehicles required to be registered under the Illinois Vehicle
25 Code.

26 (22) Fuel and petroleum products sold to or used by an air

1 carrier, certified by the carrier to be used for consumption,
2 shipment, or storage in the conduct of its business as an air
3 common carrier, for a flight destined for or returning from a
4 location or locations outside the United States without regard
5 to previous or subsequent domestic stopovers.

6 (23) A transaction in which the purchase order is received
7 by a florist who is located outside Illinois, but who has a
8 florist located in Illinois deliver the property to the
9 purchaser or the purchaser's donee in Illinois.

10 (24) Fuel consumed or used in the operation of ships,
11 barges, or vessels that are used primarily in or for the
12 transportation of property or the conveyance of persons for
13 hire on rivers bordering on this State if the fuel is delivered
14 by the seller to the purchaser's barge, ship, or vessel while
15 it is afloat upon that bordering river.

16 (25) Except as provided in item (25-5) of this Section, a
17 motor vehicle sold in this State to a nonresident even though
18 the motor vehicle is delivered to the nonresident in this
19 State, if the motor vehicle is not to be titled in this State,
20 and if a drive-away permit is issued to the motor vehicle as
21 provided in Section 3-603 of the Illinois Vehicle Code or if
22 the nonresident purchaser has vehicle registration plates to
23 transfer to the motor vehicle upon returning to his or her home
24 state. The issuance of the drive-away permit or having the
25 out-of-state registration plates to be transferred is prima
26 facie evidence that the motor vehicle will not be titled in

1 this State.

2 (25-5) The exemption under item (25) does not apply if the
3 state in which the motor vehicle will be titled does not allow
4 a reciprocal exemption for a motor vehicle sold and delivered
5 in that state to an Illinois resident but titled in Illinois.
6 The tax collected under this Act on the sale of a motor vehicle
7 in this State to a resident of another state that does not
8 allow a reciprocal exemption shall be imposed at a rate equal
9 to the state's rate of tax on taxable property in the state in
10 which the purchaser is a resident, except that the tax shall
11 not exceed the tax that would otherwise be imposed under this
12 Act. At the time of the sale, the purchaser shall execute a
13 statement, signed under penalty of perjury, of his or her
14 intent to title the vehicle in the state in which the purchaser
15 is a resident within 30 days after the sale and of the fact of
16 the payment to the State of Illinois of tax in an amount
17 equivalent to the state's rate of tax on taxable property in
18 his or her state of residence and shall submit the statement to
19 the appropriate tax collection agency in his or her state of
20 residence. In addition, the retailer must retain a signed copy
21 of the statement in his or her records. Nothing in this item
22 shall be construed to require the removal of the vehicle from
23 this state following the filing of an intent to title the
24 vehicle in the purchaser's state of residence if the purchaser
25 titles the vehicle in his or her state of residence within 30
26 days after the date of sale. The tax collected under this Act

1 in accordance with this item (25-5) shall be proportionately
2 distributed as if the tax were collected at the 6.25% general
3 rate imposed under this Act.

4 (26) Semen used for artificial insemination of livestock
5 for direct agricultural production.

6 (27) Horses, or interests in horses, registered with and
7 meeting the requirements of any of the Arabian Horse Club
8 Registry of America, Appaloosa Horse Club, American Quarter
9 Horse Association, United States Trotting Association, or
10 Jockey Club, as appropriate, used for purposes of breeding or
11 racing for prizes.

12 (28) Computers and communications equipment utilized for
13 any hospital purpose and equipment used in the diagnosis,
14 analysis, or treatment of hospital patients sold to a lessor
15 who leases the equipment, under a lease of one year or longer
16 executed or in effect at the time of the purchase, to a
17 hospital that has been issued an active tax exemption
18 identification number by the Department under Section 1g of
19 this Act.

20 (29) Personal property sold to a lessor who leases the
21 property, under a lease of one year or longer executed or in
22 effect at the time of the purchase, to a governmental body that
23 has been issued an active tax exemption identification number
24 by the Department under Section 1g of this Act.

25 (30) Beginning with taxable years ending on or after
26 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is donated for
2 disaster relief to be used in a State or federally declared
3 disaster area in Illinois or bordering Illinois by a
4 manufacturer or retailer that is registered in this State to a
5 corporation, society, association, foundation, or institution
6 that has been issued a sales tax exemption identification
7 number by the Department that assists victims of the disaster
8 who reside within the declared disaster area.

9 (31) Beginning with taxable years ending on or after
10 December 31, 1995 and ending with taxable years ending on or
11 before December 31, 2004, personal property that is used in the
12 performance of infrastructure repairs in this State, including
13 but not limited to municipal roads and streets, access roads,
14 bridges, sidewalks, waste disposal systems, water and sewer
15 line extensions, water distribution and purification
16 facilities, storm water drainage and retention facilities, and
17 sewage treatment facilities, resulting from a State or
18 federally declared disaster in Illinois or bordering Illinois
19 when such repairs are initiated on facilities located in the
20 declared disaster area within 6 months after the disaster.

21 (32) Beginning July 1, 1999, game or game birds sold at a
22 "game breeding and hunting preserve area" or an "exotic game
23 hunting area" as those terms are used in the Wildlife Code or
24 at a hunting enclosure approved through rules adopted by the
25 Department of Natural Resources. This paragraph is exempt from
26 the provisions of Section 2-70.

1 (33) A motor vehicle, as that term is defined in Section
2 1-146 of the Illinois Vehicle Code, that is donated to a
3 corporation, limited liability company, society, association,
4 foundation, or institution that is determined by the Department
5 to be organized and operated exclusively for educational
6 purposes. For purposes of this exemption, "a corporation,
7 limited liability company, society, association, foundation,
8 or institution organized and operated exclusively for
9 educational purposes" means all tax-supported public schools,
10 private schools that offer systematic instruction in useful
11 branches of learning by methods common to public schools and
12 that compare favorably in their scope and intensity with the
13 course of study presented in tax-supported schools, and
14 vocational or technical schools or institutes organized and
15 operated exclusively to provide a course of study of not less
16 than 6 weeks duration and designed to prepare individuals to
17 follow a trade or to pursue a manual, technical, mechanical,
18 industrial, business, or commercial occupation.

19 (34) Beginning January 1, 2000, personal property,
20 including food, purchased through fundraising events for the
21 benefit of a public or private elementary or secondary school,
22 a group of those schools, or one or more school districts if
23 the events are sponsored by an entity recognized by the school
24 district that consists primarily of volunteers and includes
25 parents and teachers of the school children. This paragraph
26 does not apply to fundraising events (i) for the benefit of

1 private home instruction or (ii) for which the fundraising
2 entity purchases the personal property sold at the events from
3 another individual or entity that sold the property for the
4 purpose of resale by the fundraising entity and that profits
5 from the sale to the fundraising entity. This paragraph is
6 exempt from the provisions of Section 2-70.

7 (35) Beginning January 1, 2000 and through December 31,
8 2001, new or used automatic vending machines that prepare and
9 serve hot food and beverages, including coffee, soup, and other
10 items, and replacement parts for these machines. Beginning
11 January 1, 2002 and through June 30, 2003, machines and parts
12 for machines used in commercial, coin-operated amusement and
13 vending business if a use or occupation tax is paid on the
14 gross receipts derived from the use of the commercial,
15 coin-operated amusement and vending machines. This paragraph
16 is exempt from the provisions of Section 2-70.

17 (35-5) Beginning August 23, 2001 and through June 30, 2011,
18 food for human consumption that is to be consumed off the
19 premises where it is sold (other than alcoholic beverages, soft
20 drinks, and food that has been prepared for immediate
21 consumption) and prescription and nonprescription medicines,
22 drugs, medical appliances, and insulin, urine testing
23 materials, syringes, and needles used by diabetics, for human
24 use, when purchased for use by a person receiving medical
25 assistance under Article 5 of the Illinois Public Aid Code who
26 resides in a licensed long-term care facility, as defined in

1 the Nursing Home Care Act.

2 (36) Beginning August 2, 2001, computers and
3 communications equipment utilized for any hospital purpose and
4 equipment used in the diagnosis, analysis, or treatment of
5 hospital patients sold to a lessor who leases the equipment,
6 under a lease of one year or longer executed or in effect at
7 the time of the purchase, to a hospital that has been issued an
8 active tax exemption identification number by the Department
9 under Section 1g of this Act. This paragraph is exempt from the
10 provisions of Section 2-70.

11 (37) Beginning August 2, 2001, personal property sold to a
12 lessor who leases the property, under a lease of one year or
13 longer executed or in effect at the time of the purchase, to a
14 governmental body that has been issued an active tax exemption
15 identification number by the Department under Section 1g of
16 this Act. This paragraph is exempt from the provisions of
17 Section 2-70.

18 (38) Beginning on January 1, 2002 and through June 30,
19 2011, tangible personal property purchased from an Illinois
20 retailer by a taxpayer engaged in centralized purchasing
21 activities in Illinois who will, upon receipt of the property
22 in Illinois, temporarily store the property in Illinois (i) for
23 the purpose of subsequently transporting it outside this State
24 for use or consumption thereafter solely outside this State or
25 (ii) for the purpose of being processed, fabricated, or
26 manufactured into, attached to, or incorporated into other

1 tangible personal property to be transported outside this State
2 and thereafter used or consumed solely outside this State. The
3 Director of Revenue shall, pursuant to rules adopted in
4 accordance with the Illinois Administrative Procedure Act,
5 issue a permit to any taxpayer in good standing with the
6 Department who is eligible for the exemption under this
7 paragraph (38). The permit issued under this paragraph (38)
8 shall authorize the holder, to the extent and in the manner
9 specified in the rules adopted under this Act, to purchase
10 tangible personal property from a retailer exempt from the
11 taxes imposed by this Act. Taxpayers shall maintain all
12 necessary books and records to substantiate the use and
13 consumption of all such tangible personal property outside of
14 the State of Illinois.

15 (39) Any work of art that is sold from a place of business
16 within an Illinois Arts District by a person who has been
17 granted an exemption under Section 15 of the Arts District Act.

18 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
19 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;
20 94-1002, eff. 7-3-06.)

21 Section 999. Effective date. This Act takes effect upon
22 becoming law.